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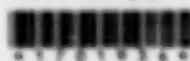
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National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21^a

Poland

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I. Introduction – methodology and consultations

1. This report has been drafted for the purposes of the third Universal Periodic Review (UPR) of human rights in Poland. Under the general guidelines laid down by the Human Rights Council in its decision 17/119, it focuses on human rights developments in Poland since the last review, and on the progress in the implementation of the recommendations received during the second UPR in 2012. The report is the result of inter-ministerial consultations with contributions from the Commissioner for Human Rights (CHR) – and the Ombudsman for the Rights of the Child (ORC), and its preliminary draft has been consulted with representatives of NGOs and the relevant parliamentary committees.

II. Development of normative and institutional human rights protection framework

2. The legal and institutional framework of human rights protection and promotion in Poland has a solid foundation. Detailed information has been provided in Poland's reports during the first and second UPRs (A/HRC/WG.6/1/POL/1 and A/HRC/WG.6/13/POL/1). Furthermore, the 2014 mid-term report describes the progress in implementing the recommendations received during the second UPR.

3. The key institutional changes since Poland's last UPR, aiming to put in place an effective cooperation mechanism within the public administration at the central and regional levels with respect to equal treatment, include the appointment of equal treatment coordinators in each ministry and in the Prime Minister's Chancellery (Chancellery) as well as voivode¹ plenipotentiaries for equal treatment in the voivodship offices.

4. A 2016 Regulation of the Council of Ministers appointed the Government Plenipotentiary for Civic Society (PCS). The PCS's responsibilities include the preparation and monitoring of the national civic society development programme, and the coordination and monitoring of cooperation between the public administration and NGOs and other civic institutions.

5. The following new legislation protecting and promoting human rights has been passed since 2011:

- new Foreigners Act, i.e., the Act of 12 December 2013 on Foreigners, took effect on 1 May 2014 (for additional information, see sections on combatting human trafficking and conditions of detention of migrants);
- Act of 10 September 2015 amending the Act on Granting Foreigners Protection in the Territory of Poland and certain other Acts, took effect on 13 November 2015 and implements the "asylum package" (for additional information, see section: "Preventing discrimination against migrants").

6. Since the second UPR, Poland has ratified or signed the following international conventions:

- Council of Europe (CoE) Convention on Preventing and Combating Violence against Women and Domestic Violence, made in Istanbul on 11.05.2011; ratified on 13.04.2015; took effect on 1.08.2015 (recommendations 27 and 28);
- CoE Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse of 25.10.2007, made in Lanzarote (Lanzarote Convention), took effect on 20.02.2015;

- Convention on the Rights of Persons with Disabilities (CRPD); ratified on 6.09.2012 (recommendations 2, 7, 16, 17, 18, 19, 21);
- Convention for the Protection of all Persons from Enforced Disappearance, signed on 25.06.2013. Ratification requires harmonisation of domestic family law with the Convention (recommendations 1, 20, 22, 23, 24);
- the Kampala amendment to the Second Optional Protocol to the Rome Statute of the International Criminal Court; ratified on 25.09.2014 (recommendation 26);
- Protocol No. 15 amending the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), amending the rules of procedure of the European Court of Human Rights (ECtHR) and amending the Preamble to the Convention, signed on 09.04.2014, ratified on 10.09.2015;
- Second Optional Protocol to the International Covenant on Civil and Political Rights of 15 December 1989; ratified on 25 April 2014 (recommendations 3, 5, 6, 8, 9);
- Additional Protocol to the CoE Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems, made in Strasbourg on 28.01.2003, took effect on 20.02.2015;
- CoE Convention against Trafficking in Human Organs, signed on 25.03.2015;
- Optional Protocol to the Convention on the Rights of the Child (CRC) on communication procedure, signed on 30.09.2013 (recommendation 25);
- Protocol No. 29 to the 1930 Forced Labour Convention, made in Geneva on 11 June 2014, ratified on 23.11.2016.

7. In 2013, Poland withdrew the reservations to Article 7 and Article 38 of the CRC and amended the declaration to the Optional Protocol to the CRC on the involvement of children in armed conflict.

III. Cooperation with international human rights protection mechanisms

8. Poland fully cooperates with the international human rights mechanisms. Poland has presented reports on the implementation of:

- CRC – in 2012 (Committee session in 2015);
- CRPD – in 2014 (Committee session date not fixed);
- International Covenant on Economic, Social and Cultural Rights (ICESCR) – in 2015 (Committee session in 2016);
- International Covenant on Civil and Political Rights (ICCPR) – report for the period 2008 – 2015 (Committee session in 2016);
- Convention on the Elimination of All Forms of Discrimination against Women – report for 2002–2010 (Committee session in 2014);
- Convention on the Elimination of All Forms of Racial Discrimination– report for August 2009 – December 2011 (Committee session in 2014);
- Poland presents annual reports on the implementation of the European Social Charter (CoE Convention).

9. Poland has extended a standing invitation to all the UN human rights special procedures.

IV. Development of human rights promotion and protection – implementation of second UPR recommendations accepted by Poland

10. In the last four years, Poland has accepted new international obligations and implemented, in whole or in part, a range of recommendations of the second UPR (see paragraph 6).

A. Right to life, freedom and security

Preventing torture and inhuman or degrading treatment and punishment

11. The Constitution of Poland (Constitution) prohibits corporal punishment (Article 40). The Family and Guardianship Code prohibits corporal punishment by persons who exercise the duties of parents or guardians of minors. The Criminal Code (CC) guarantees bodily integrity and inviolability and penalises any breach thereof. Since the second UPR, the ORC has developed further social campaigns promoting the right of a child to be raised free of violence (**recommendation 41**).

12. Poland has maintained a standing invitation to all special procedures since 2001 and approved all requests for national visits (**recommendation 42**).

13. All acts of torture or other inhuman or degrading treatment are penalised under the Polish CC, prosecuted *ex officio*, and penalised adequately to the gravity of the act. Poland is a signatory of the Convention for the Prevention of Torture and presents regular reports on its implementation. Poland has ratified the Optional Protocol and established a national prevention system (delegated to the CHR) (**recommendation 72**).

14. The National Public Prosecutor's Office (Prosecutor's Office) monitors cases regarding crimes under Article 246 of the CC (extortion of testimony by public officials), Article 247 of the CC (abuse of persons deprived of liberty) and crimes related to the deprivation of life committed by officials during or in connection with their professional duties. In 2014, the General Public Prosecutor issued guidelines on proceedings handled by public prosecutors regarding crimes related to the deprivation of life or inhuman or degrading treatment and punishment where the perpetrator is a police officer or other public official. The guidelines were issued in implementation of ECtHR judgments and to ensure effective and prompt investigation of reports and complaints regarding torture and inhuman treatment of persons deprived of liberty. Every regional public prosecutor's office and every district public prosecutor's office has a coordinator for crimes committed by police officers who supervises and monitors such cases. Training is provided with the participation of public prosecutors and officers of the Internal Affairs Bureau of the Central Police Headquarters, dedicated to the methodology of investigating police officers and employees (**recommendation 58**).

15. Police officers are investigated by public prosecutors. Individual investigative measures may be delegated to the police or other competent services only in exceptional cases and to a limited extent. This safeguards the independence of the procedure. Concerning the demonstration in November 2011, the suspected police officer has been investigated. As a result, the District Court of Warszawa-Śródmieście found the suspect guilty of an act defined in Article 231 (1) of the CC (abuse of power) in conjunction with Article 217 (1) of the CC (violation of bodily integrity) and sentenced him to six months of deprivation of liberty conditionally suspended for three years. Furthermore, the court banned him from the profession of police officer, detective and other professions providing persons or property security for a period of eight years.² (**recommendation 73**)

Pre-trial detention and conditions in prisons (recommendations 74, 75, 76, 77, 91)

16. A range of legislative and organisational measures have been taken to improve the conditions in prisons and to comply with the international standards. As a result, there has been no overcrowding in Polish prisons since 2010.

17. The Government is taking further steps to increase the space in square meters per inmate. The minimum space per inmate under Polish law is 3 square meters. The occupancy of prisons was 86.9% as at 14 October 2016.

18. Steps taken to decrease the population density in prisons include:

- giving persons sentenced to deprivation of liberty (up to one year) the option to serve the time outside of prisons under the Electronic Surveillance System;
- a new principle introduced in the CC as of early 2012 whereby the penalty of deprivation of liberty and the penalty of detention in substitution for a fine that is not paid shall be served last (which allows those sentenced to pay the cash amount outstanding under the fine);
- less serious crimes penalised by the deprivation of liberty have been converted into offences penalised by detention up to 30 days, restriction of liberty, or a fine;
- the principles of sentencing and serving the penalty of restriction of liberty have been amended to apply the penalty more broadly, among others by extending the list of entities in which those sentenced persons may serve and by the State Treasury taking over a part of the costs of their service;
- a significant criminal law reform is underway, aiming to improve the efficacy and expand the options of using non-custodial penalties.

19. Key legislative amendments aimed at limiting the application of the penalty of deprivation of liberty include:

- the option of imposing a fine or the penalty of restriction of liberty instead of the penalty of deprivation of liberty for acts subject to the penalty of deprivation of liberty up to eight years (five years until July 2015);
- non-custodial penalties are a priority as an alternative for crimes subject to the penalty of deprivation of liberty for up to five years;
- the time after which the conviction is spent by operation of the law has been shortened: for the penalty of restriction of liberty, from five years to three years after the conviction was served or pardoned or after the limitation of serving the conviction; for a fine, from five years to one year after the conviction was served or pardoned or after the limitation of serving the conviction (changes effective as of March 2015).

20. The number of pre-trial detentions has been steadily decreasing for over a decade. In 2005–2015, the total number of persons in pre-trial detention decreased gradually (from 34,549 in 2005 to 8,619 in 2015). The decrease follows a broader application of less onerous pre-trial measures necessary to safeguard proper criminal procedure, including bail, prohibition on leaving the country, and police supervision.

21. In 2005–2015, following a comprehensive amendment of the rules of criminal procedure, the total number of non-custodial pre-trial measures increased steadily:

- number of cases under police supervision, from ca. 1,650 to ca. 8,000;
- number of cases with bail, from ca. 2,900 to ca. 6,900;
- number of cases with prohibition on leaving the country, from ca. 2,100 to ca. 4,500.

22. The duration of pre-trial detention has also decreased in recent years. The duration of pre-trial detention was cut by more than half in 2005–2015.

23. It should be noted that the Minister of Justice has been monitoring cases of pre-trial detention since 2012. Regional public prosecutor offices monitor cases where the duration of pre-trial detention exceeds nine months. The Prosecutor's Office monitors cases where the duration of pre-trial detention exceeds 12 months. An amendment of the Code of Criminal Procedure (CCP) effective since April 2016 prohibits the previously legal application of pre-trial detention to crimes subject to the penalty of deprivation of liberty for up to one year.

24. The National School of the Judiciary and Public Prosecution offers regular training which promotes international standards including pre-trial detention. A systemic training series opened in 2012 covers the most frequent ECHR violations concerning the judicial system ruled by the ECtHR against Poland, including excessive length of pre-trial detention. As a target, all common court judges will undergo training within five to seven years.

25. The efficacy of these measures is corroborated by the fact that the CoE Committee of Ministers closed supervision of Poland's implementation of 172 ECtHR judgments concerning the excessive duration of pre-trial detention (Trzaska group).

Work of judicial system (recommendations 87, 88, 89, 90, 92, 93)

26. Efforts continue to enhance the efficiency of the judicial system in order to step up judicial proceedings and reduce delays in on-going review of cases. The number of judge positions has remained stable; however, importantly, the number of auxiliary staff supporting judges has increased, coupled with a broader contribution of court clerks (*referendarz sądowy*) who review less complex cases and reduce the workload of judges. The number of assistant positions increased by more than 11% from 2014 to the first half of 2016.

27. The position of trainee judge (*asesor sądowy*) was re-established in common courts in 2016. The objective is to better safeguard the right to fair and transparent trial without undue delay in the competent independent court.

28. Spending on the judicial system has been steadily growing for several years. A clear uptrend has been reported since 2000. Spending increased by 3.2% year-on-year in 2014 and by another 2.5% in 2015. Court infrastructure investment has also risen.

29. A system of free-of-charge legal assistance has been in place since 2016, available at 1,524 locations across Poland. Some of the locations are operated by specialised NGOs (selected in an open competition). The number of assistance locations depends on the population in the area. Advisory is available at the pre-trial stage to eligible individuals (including people under 26 or over 65). In total, 98,988 advisory services were provided in the first quarter of 2016 alone.

Police measures to prevent police misconduct (recommendations 58 and 95)

30. Paragraph 14 presents measures taken by the Prosecutor's Office with regard to crimes related to deprivation of life and inhuman or degrading treatment and punishment committed by police officers and other public officials.

31. To prevent police officer misconduct, a strategy was approved in 2015 to prevent human rights violations by police officers. The strategy identifies key areas of human rights safeguards in the police force as well as solutions to be implemented.

32. Since January 2010, the CHR acting as an independent institution responsible for investigating police officer and border guard misconduct receives reports on events involving police officers which might constitute human rights violations by officers. The mechanism is described in the UPR mid-term report concerning the implementation of the recommendation.

33. The Central Police Headquarters has taken many preventive measures including training, meet-ups and reviews of individual cases of misconduct on duty. A manual for new police officers has been released. Approximately 3,000 training sessions and meet-ups have been held since January 2014.

34. Under the *Key Directions of Education and Information Initiatives to Protect Human Rights and Freedoms and the Equal Opportunities Strategy of the Police in 2016–2018*, preparations have been launched to support education and information initiatives aimed at professionalization of police involvement in safeguarding human rights and freedoms, professional codes of ethics, and equal treatment.

35. In view of the Government's measures, the CoE Committee of Ministers concluded on 8 June 2016 that the ECtHR judgements concerning disproportionate use of force by police officers and ineffective prosecution, known as the Dzwonkowski group, had been implemented (cf. Resolution CM/ResDH(2016)148).

Human trafficking and helping victims (recommendation 82)

36. The National Intervention and Consultation Centre, launched in 2006, provides professional assistance to victims of trafficking in humans. The responsibilities of the Centre, which is financed by the central government, are delegated to NGOs (selected in an open competition). The Centre's main responsibilities include informal identification of victims of trafficking in humans, interventions, provision of safe shelters, medical, legal, psychological assistance, interpreter services, and prevention advice and consultations.

37. The Centre offers accommodation in its shelters and safe accommodation of young children in housing and educational institutions. Several specialty facilities for victims who are minors operate in Poland.

38. The Centre has trained and experienced staff, and cooperates with many institutions and organisations in providing support to victims of human trafficking who are minors. Given the growing number of identified victims of trafficking in humans, this model of support will most likely be extended in the coming years.

39. Building on efforts to develop a system of prevention and combatting of trafficking in humans, Poland has adopted new National Action Plans to Combat Human Trafficking for 2013–2015 and 2016–2018.

40. A new document entitled "Algorithm of Identification and Handling of Victims of Human Trafficking Who Are Minors for Police Officers and Border Guards" was released in 2015 and distributed to the police and the border guards. The document was consulted with NGOs. It describes the identification procedure, taking into account the specificity and parameters of contemporary forms of trafficking in children, as well as the course of action in handling victims who are minors.

41. The new Foreigners Act (of December 2013) simplifies the procedures governing the stay of foreigners who are victims of human trafficking.

Fight against terrorism (recommendations 122, 123, 124)

42. Poland has signed the Additional Protocol to the CoE Convention on the Prevention of Terrorism of 22 October 2015. The Convention provisions concerning criminal law were

implemented in the Act of 10 June 2016 on Anti-Terrorist Activity, which added the following crimes to the CC: participation in training enabling a terrorist crime and crossing the border of Poland to commit a terrorist crime in another country. In addition, a new solution provides immunity in the event of foregoing certain crimes related to terrorist activity.

43. The Krakow Regional Prosecutor's Office investigates alleged crimes related to alleged operation of the CIA's *secret detention centres* in Poland. It involves the abuse of power by public officials at different locations in Poland between 2001–2005 by allowing the operation of custodial facilities in Poland where suspected terrorists were detained for more than seven days in violation of the law.

44. The investigation to date has compiled extensive evidence, both unclassified and classified (the latter is crucial), which is, however, still in the process. The case involves a number of requests for international legal assistance, among others addressed to the USA.

45. Given the special profile of the investigation, it must be classified. Although some of the on-going investigative work and the findings to date are classified, representatives of the victims have access to the files, participate in some of the work, and exercise their procedural rights.

Lustration (vetting) proceedings

46. Lustration (vetting) is currently governed by the *Act of 18 October 2006 on Disclosure of State Security Organs' Documents of 1944–1990 and their Content*. The Act implemented amendments affecting the exercise of the right to fair process by those subject to lustration (*recommendation 38*). Among other things, proceedings take place before regional courts, and no longer before the Warsaw Appeal Court, which required those subject to lustration to travel long distances; to fully safeguard procedural rights and human rights, those subject to lustration now have access to all the rights available to suspects/the accused under the Polish law on criminal procedure; major changes include a new rule whereby lustration proceedings are public, unless those subject to lustration request *in camera* proceedings in whole or in part; the files of lustration proceedings are also public, which allows the party to use the entire evidence in its defence; first and second-instance court judgements are reasoned and served to the party.

47. Amendments have been made to provisions governing the procedure of disclosing classified materials during court proceedings. The new provisions have completely changed the position of those subject to lustration. The *Regulation of the Minister of Justice of 20 February 2012 concerning the method of handling interview minutes and other documents or objects subject to the confidentiality of classified information or professional information* allows for disclosure of classified materials, taking notes, making transcripts, copies, extracts, and using such notes, copies, transcripts and extracts at a court hearing or sitting.

48. In view of steps taken by the Government, the CoE Committee of Ministers concluded that the Government fulfilled all its obligations and considered its judgments to have been implemented (cf. Resolution CM/ResDH(2014)172). It should be noted that the ECtHR has not communicated new complaints in this regard to the Government. It follows that there are no more issues relating to the lustration process pending in Poland.

Liberalisation of laws on right to freedom of expression

49. The Ministry of Justice (MJ) is not conducting any legislative work to decriminalise the act defined in Article 212 of the CC (*recommendation 100*).

50. The right to freedom of expression and the freedom of the mass media are among the key principles enshrined in the Constitution. These principles are clarified in the statutes, in particular the Radio and Television Broadcasting Act and the Act – Press Law. The provisions of those Acts safeguard mass media plurality and broad access of the audience to different media. Further work is under consideration to enhance mass media plurality and broaden access to different media (recommendation 101).

B. Ombudsman - the Commissioner for Human Rights (recommendations 32, 33, 34, 35)

51. Salaries in public institutions have been frozen since 2009 but the office of the CHR was an exception. In 2012 and 2013, the office received an additional budget (PLN 1 million and PLN 667,000, respectively) to hire new staff. The additional salary budget was linked to the execution of functions related among others to the CRPD. In 2016, the Sejm reduced the CHR's budget to 94.7% of the 2015 budget by limiting investments and salary raises; the budget of the CHR's office is proportionate to that of other public institutions.

C. Women's rights and gender equality (recommendations 43, 44, 78, 79, 80, 81, 102, 103, 104, 105, 106, 107, 108, 109)

Combating violence against women (recommendations 78, 79, 80, 81)

52. One of the key changes in relation to combatting violence, including violence against women, in Poland was an amendment of the CC and the CCP which introduced prosecution *ex officio* of sexual offences defined in Articles 197–199 of the CC, i.e., rape or making one to submit to another sexual act by coercion. The Act took effect on 24 January 2014.

53. Apart from legislative amendments, the Prosecutor's Office and the police took the initiative to improve their handling of cases of sexual violence. The *General Public Prosecutor's Guidelines on the Terms of Handling Cases of Rape* were issued and took effect on 18 December 2015. On 23 July 2015, the Chief of Police issued *Guidelines No. 1 concerning certain investigation activities of police officers*. The *Police procedure of handling victims of sexual violence* was issued under *Guidelines No. 1*.

54. The Government Plenipotentiary for Equal Treatment (PET) implemented the project *Rights for victims of sexual violence: a new systemic approach. Comprehensive information services, training and actions* from December 2013 to December 2015. The objective was to improve the system for the provision of information and handling of sexual offences by the police, courts, and public prosecutors. In November 2016, the Plenipotentiary implemented the radio and online campaign *Sexual violence. It often starts with words* in order to generate communications which stressed the inadmissibility of sexual violence against women and to debunk myths and stereotypes concerning sexual violence.

Combating discrimination against women

55. Poland implements all relevant EU legislation concerning combatting discrimination against women and integrates its provisions into national law. The Government continues to work towards improved solutions and national laws eliminating all forms of discrimination against women, as demonstrated by reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (**recommendation 43**).

56. The National Action Programme for Equal Treatment for 2013–2016 is an important instrument of the Government's policy of equal treatment (among others, on grounds of gender). The Programme defines the goals and priorities of actions for equal treatment in the following areas: raising awareness of the general public on equal treatment, including reasons and consequences of breaches of the principle of equal treatment; preventing breaches of the principle of equal treatment; collaboration with social partners, NGOs and others to promote equal treatment (**recommendation 37**).

57. Furthermore, the PET runs a range of initiatives to prevent discrimination against women (including campaigns, consultations, youth competitions).

Policy in support of equal pay for women and men (recommendation 44)

58. According to Eurostat (2014), the wage gap in Poland is 7.7% to the disadvantage of women, compared to 16.1% in the EU. The Government continues to work towards equal pay for women and men. Actions focus on promotion of and information about the principle of equal pay for women and men (including campaigns), implementation of a policy in support of reconciliation of professional and family lives (including maternity leaves, parenting leaves, promotion of alternative solutions and strategies in the workplace, day care), monitoring of unequal treatment.

59. Every complaint with claims of discrimination filed with the National Labour Inspectorate is reviewed. Free-of-charge legal advice is available. The National Labour Inspectorate is also engaged in prevention and promotion.

60. Employees' rights facilitating the reconciliation of professional life and family life have been significantly extended in recent years: the list of leaves available to working parents has been extended, and parents are able to share this right. The most recent major amendment of the Labour Code (LC) in this regard took effect on 2 January 2016. The new provisions ensure that working parents can fully share the right to a leave (part of the maternity leave, parental leave).

61. The last example of the Government's initiatives is the project "Family and jobs: It pays off!" launched in 2016 to create a climate conducive to reconciliation of professional and family lives and to promote solutions in support of reconciliation of those roles.

Participation of women in political and public life (recommendations 102, 103, 104, 105)

62. The goals of the National Action Programme for Equal Treatment for 2013–2016 (see paragraph 56) include increased participation of women in decision-making. Key actions completed towards this goal include: support of greater political potential of women (education, mentoring programmes, networking); initiation and execution of a public debate on the benefits of balanced participation of women and men in politics (with the participation of politicians and NGOs).

Reproductive health (recommendations 96, 106, 107, 108, 109)

63. The right to decide responsibly about having children is safeguarded in Poland comprehensively through access to methods of conscious procreation, education, advice and healthcare (**recommendation 96**). The right is enshrined in the preamble to the *Act of 7 January 1993 on Family Planning, Protection of the Human Foetus, and Conditions of Admissibility of Abortion*, and it is reflected in the main body of the Act.

64. Under Article 4 of the Act, school curricula include knowledge of human sexual life, the principles of conscious and responsible parenthood, the value of family, prenatal life, and methods and means of conscious procreation. According to Article 2 (2) of the Act, the

central government and local governments, acting within their powers, must provide citizens with free access to methods and means of conscious procreation. Contraceptives which are medical products or medical devices are registered and available in Poland, as are medicines and medical products used during pregnancy and necessary to take care of the foetus and to provide medical care to pregnant women. Reimbursement is available for medicines containing hormonal active ingredients which may have a contraceptive effect.

65. The conditions for abortion are defined in the Act of 7 January 1993 *on Family Planning, Protection of the Human Foetus, and Conditions of Admissibility of Abortion* (**recommendations 106, 107, 108, 109**). The Act governs issues concerning a woman's consent for abortion, and the period of pregnancy when abortion is lawful. Moreover, according to the Act, individuals covered by social security and individuals entitled to free-of-charge medical care are eligible to use free-of-charge abortion in the healthcare sector.

66. The doctor may perform an abortion where: the pregnancy poses a hazard to the life or health of the pregnant woman; prenatal diagnosis or other medical indications suggest a high risk of severe and irreversible impairment of the foetus or an incurable life-threatening disease of the foetus; there is a reasonable suspicion that the pregnancy is the result of a crime.

67. The Act of 6 November 2008 *on the Rights of Patients and the Commissioner for Patients' Rights* (CPR) introduced into the Polish legal system the right of patients to raise reservations about the opinion or judgment of a physician. Reservations may be raised where the opinion or judgment affects the patient's rights or obligations under the law. The right is an effective remedy, among other things, for women who have been refused an abortion (under the circumstances laid down in the Act), a referral to prenatal diagnosis, or a prenatal diagnosis upon referral. Reservations against the opinion or judgment of a physician may be filed with the Medical Board of the CPR.

68. It should be noted in the context of patients' rights under the Act of 7 January 1993 *on Family Planning, Protection of the Human Foetus, and Conditions of Admissibility of Abortion* that claims may be raised for compensation in the event of financial loss due to additional costs of raising a handicapped child paid by parents due to a violation of the parents' rights to plan the family and to have access to abortion, where caused by physicians. The issue of damages for such claims is reflected in national jurisprudence.

Rights of child (recommendations 25, 31, 59, 83, 84, 85, 86, 111, 112)

69. Promotion of the rights of the child and the methods of their protection is the ORC's statutory responsibility (**recommendation 31**). The Ombudsman's initiatives help to raise and reinforce awareness of the rights of the child among children and adults. A range of initiatives taken every year promote the rights of the child. Key initiatives include: promotion of the rights of the child at the Ombudsman's meetings with children and young people, regular social campaigns, conferences, the National Day of the Rights of the Child, and support for projects promoting the rights of the child.

70. The Ombudsman in partnership with the MJ, the Ministry of the Interior, the Prosecutor's Office, the Ministry of Labour and Social Policy, the Ministry of National Education and the Central Police Headquarters, released the "Guidelines for action to the benefit of the child" as guidance for officers in operations involving children.

71. The rights of the child are taught at all levels of education in ways aligned with age, cognitive abilities, and social experiences of pupils.

Protecting children against violence, exploitation and neglect

72. Article 96.1 of the Family and Guardianship Code prohibits corporal punishment (*recommendation 83*).

73. The 2011 Act on Support for Family and Alternative Care Systems obligates local governments and public institutions to support families facing problems with care and education of children. Families are supported through working with the family and providing assistance in care and education of children. Assistance involves day care services including care and education of children, assistance in learning, free time activities, games and sports, as well as hobbies. Special day care facilities offer social therapy, therapy, correction, compensation and logopedics services. Families in difficulty may use the assistance of a support family. The family assistant helps the family improve its situation, instructs the family in household management methods, and helps the family resolve problems with raising children. The objective is for the family to attain a fundamental level of stability enabling it to raise the child.

Combatting sexual exploitation of children (recommendations 84, 85, 86)

74. Poland has introduced specific categories of offences in the amendment of 5 November 2009 to harmonise Polish law with the Lanzarote Convention.

75. Polish criminal law prohibits sexual intercourse with minors under 15, other sexual activities involving such persons, or coercing such persons to submit to or make such activities. It penalises among other things presenting pornography to minors under 15, soliciting minors for sexual intercourse or other sexual activity, and promoting paedophilia.

76. An amendment of the CC and the CCP effective in January 2014, reinforced protection of minors who are victims or witnesses against the adverse impact of repeated interviews during criminal proceedings.

Protecting children against poverty

77. According to the Act of 7 September 1991 *on the Educational System*, students are offered diverse forms of support including: financial assistance including social benefits (maintenance grants paid by the State annually amount to ca. PLN 404 million; assistance is paid to more than 500,000 students), the Prime Minister's scholarships (ca. 4,000 students annually; PLN 11 million earmarked annually for the scholarships), the minister for education's scholarships (one-off financial awards), scholarships for learning or sporting achievements.

78. Assistance in child care and raising children is offered to parents under the 2011 Act on Care of Children Under Three Years of Age. It helps to establish crèches and promotes alternative care solutions.

79. Support for parents taking care of disabled children has increased since 2014: the amount of nursing benefits has been raised.

80. The thresholds of income criteria of eligibility for family benefits and the amounts of family benefits were raised in 2015–2017. Since 2016, parents who are not eligible for a maternity allowance are paid a parental allowance for one year after birth.

81. A Big Family Card was introduced in 2014 to support families with many children in creating adequate conditions of the development of children. The card offers discounts among other things in railway transport, cultural institutions, sports centres, and shopping. More than 1.6 million cards have been issued. The card is accepted by more than 1,400 operators.

82. The "Family 500+" Programme was launched in 2016. The programme pays a PLN 500 child allowance for the second and each subsequent child in the family irrespective of the family's income level. The benefit is also available for the first child provided that the family's income is below a threshold (increased for children with disabilities).

D. Rights of people with disabilities

83. The Government works toward improved exercise of rights of people with disabilities by undertaking initiatives in support of social and professional activity of people with disabilities, development of their self-sufficiency, and social benefits.

84. Research is underway looking into potential further modifications of the support system for people with disabilities, their families and caretakers: a task force for systemic solutions for caretakers of people with disabilities was appointed in January 2016 and a task force for solutions to improve the situation of people with disabilities and their family members (in particular access to education, culture, employment and healthcare) was appointed in September 2016. The strategy for people with disabilities for 2017–2030 has been in the drafting since 2016.

E. Rights of sexual minorities

Combatting discrimination and violence on grounds of sexual orientation – recommendations 66, 68, 70, 71

85. The prohibition of discrimination in political, social and economic life on all grounds is part of the Polish legal system enshrined in Article 32 (2) of the Constitution. The Polish legal system, considered holistically, safeguards broad protection of the principle of equal treatment on many levels.

86. Protection against discrimination should be considered in the first place in the context of protection of personal rights safeguarded by civil law. In the current legal status quo, this matter is governed by Article 23 of the Civil Code. It defines personal rights by providing an open-ended list of designations including reputation, freedom of conscience, name and image.

87. The aforementioned provisions imply that protection of personal rights is comprehensive as it may be exercised in many ways using diverse remedies. It may be financial or non-financial in nature.

88. Further to the foregoing, it should be noted that the applicable legislation offers comprehensive protection of any person whose personal rights have been violated or put at risk. This includes two types of non-financial claims: to cease and desist, and to take measures necessary to eliminate the violation of personal rights. Furthermore, it provides that financial protection as compensation may be adjudicated in favour of the victim or a charity in each case of violation of (or risk to) personal rights, as well as damages where a financial loss is incurred due to the violation of personal rights.

89. According to Article 11.3 of the LC, any discrimination in employment, including on grounds of sexual orientation, either direct or indirect, is prohibited. Employees have equal rights for equal performance of the same obligations (**recommendation 70**). The provisions of the LC concerning compensation for a violation of the principle of equal treatment in employment apply in the event of damage caused by discrimination on grounds of sexual orientation. The Act of 3 December 2010 implementing certain EU legislation on equal treatment prohibits discrimination (among other things on grounds of sexual orientation) against individuals who work under civil law contracts.

90. Protection against discrimination is safeguarded by the Act on Promotion of Employment and Labour Market Institutions. The Act on Promotion of Employment and Labour Market Institutions provides for criminal liability in the event of violation of the principle of equal treatment. Certain EU legislation on equal treatment applies in proceedings involving violation of the principle of equal treatment.

91. The National Labour Inspectorate takes three types of actions to enforce the legislation on equal treatment in employment: prevention, advisory, and monitoring of employers accused of discriminatory practice. Criminal law and labour law, as well as a range of specific statutes, include safeguards of the prohibition of discrimination.

F. Rights of national minorities and migrants

Integration of Roma community and combatting discrimination against Roma

92. The key part of assistance for the Roma community is the Programme of integration of the Roma community in Poland for 2014–2020 (in continuation of the initiatives in 2004–2013). Funding is mainly provided from the State budget at PLN 10 million per annum.

93. The Programme's goal is to improve integration of the Roma community in civic society by providing support in four areas: education and cultural education (improved participation in education of pupils and students of Roma origin, measures improving awareness about the Roma community); housing; promotion of employment; and healthcare (**recommendation 115**).

94. Education is a priority as it may have a systemic impact improving education and job opportunities of the Roma. The Polish educational system gives Roma children and youth full access to pre-school education as well as education in public schools at all levels of education and in all types of schools.

95. If necessary, additional free-of-charge make-up classes of the Polish language (for Roma pupils) and other make-up classes are offered.

96. Educational regulations provide for the option of hiring Roma education assistants in schools (persons of Roma origin) to provide caretaking functions and serve as liaisons between schools and the parents of Roma pupils, as well as auxiliary teachers trained in teaching and education of bicultural and bilingual pupils.

97. A broad range of measures in support of the education of Roma pupils (e.g., provision of school kits, community day care, access to pre-school education, scholarships for pupils and students of Roma origin) are taken under multiannual government programmes (currently, *Programme for 2014–2020*).

98. The implementation of the recommendation to increase access to bilingual education faces difficulty. The law allows for education in the Roma language as a language of an ethnic minority; however, the Roma living in Poland are not interested in exercising this right. This derives from the cultural system which prohibits the Roma from teaching the language outside of the community.

Promotion and protection of rights of minorities, including education, economic rights, employment (recommendations 114, 117)

99. According to Article 70 of the Constitution, everyone has the right to education and the public authorities ensure universal and equal access to education. Public schools are a responsibility of local governments. As a rule, compulsory education starts at the beginning

of the school year in the calendar year when the child turns seven. A child aged six is only required to undergo a one-year pre-school course.

100. According to Article 68 of the Constitution, everyone has the right to health protection and the public authorities ensure equal access to healthcare services financed with public funds.

101. Measures have been continued to protect, preserve and develop the cultural identity of minorities by providing special-purpose grants in the amount of PLN 11,197,000.00 in 2014, PLN 12,185,921.00 in 2015 (among other things, for the publication of magazines and books, organisation of festivals, concerts, etc.) and investments in the amount of PLN 1,898,000.00 in 2014, PLN 2,146,831.00 in 2015 (e.g., construction, repairs, purchase of equipment, etc.). Grants have also been provided in the amount of PLN 1,864,854.00 in 2014 and PLN 1,904,000.00 in 2015 to support the statutory activity of minority organisations; replacement of information boards has been financed as a result of adding names of towns and physiographical objects in minority languages (PLN 205,923.56 in 2014, PLN 177,734.66 in 2015).

102. The Government takes steps to prevent the closing by local governments of small (cost-intensive) schools with instruction in minority languages and schools which offer other forms of language learning, by providing financial mechanisms which reimburse the additional cost of such schools to the entities responsible. The mechanism was extended in 2013 by contributing additional funding for schools with instruction in minority languages. Additional budgets provided to entities responsible for schools which offer language learning or instruction in minority languages are rising year by year despite a demographic downturn. The number of such schools in Poland has also risen.

Detection conditions of migrants (recommendations 118, 119, 121)

103. In 2013–2015, major changes were implemented in the operation of guarded centres for foreigners and the conditions of stay of foreigners. As of 2013, the following changes have been gradually put in place:

- the profile of the centres has been defined, aligning their scope of operation with the existing infrastructure, the migration conditions, and the capacity represented by the staff of the centres, among other things to safeguard compulsory education of eligible children;
- the conditions of stay have been standardised by drafting a standard document which governs the conditions (translated into 15 foreign languages);
- measures have been taken to minimise the regime for foreigners;
- the working hours of the medical staffs have been extended, third-party psychologists have been hired, relations have been established with addiction treatment centres;
- social workers (responsible among other things for monitoring the psychological and physical condition of foreigners) and return officers (providing foreigners with current information about the status of pending administrative proceedings) have been appointed among the border guards working in guarded centres;
- training for officers working in guarded centres has been extended to include courses in new foreign languages among other things.

104. Police officers working in all guarded centres are regularly trained, among other things in protection of human rights, cultural differences, and the identification of vulnerable groups.

105. Access to medical services (basic and special) in guarded centres for foreigners is no different from medical services available to Polish nationals in terms of the procedure of access and quality.

106. Minors attending schools are given textbooks and necessary school supplies (including among other things notebooks, pencils, etc.). Furthermore, officers and educational workers in guarded centres who have a pedagogical background offer extramural activities and education accommodating the situation of the minors.

107. The new Foreigners Act (December 2013) and amendments of the Act on Granting Foreigners Protection in the Territory of Poland provide solutions which prohibit the placement of foreigners who are minors without a guardian and seek international protection and restrict the placement of foreigners who are migrants in guarded centres for foreigners.

108. The Foreigners Act of December 2013 provides for preferential application of measures which are alternatives to detention, resulting in a significant reduction in the number of foreigners who are placed by courts in a guarded centre or detention for foreigners.

109. The Regulation of the Minister of Education of 9 September 2016 *concerning education of non-Polish nationals and Polish nationals educated in schools of the educational system of other countries* allows entities responsible for public schools to establish preparatory classes for individuals arriving from abroad who are subject to compulsory education or compulsory learning if they do not speak Polish or speak Polish insufficiently to use education or require an educational process adjusted to their educational needs and organisational forms supporting effectiveness of such education. A preparatory class may be established by an entity responsible for a public school during the school year as well. This solution is relevant in the event of concurrent arrival in the school of a large number of pupils from abroad, e.g., children of persons seeking international protection or evacuated people. Preparatory classes may also be established in schools where children staying at border guard detention centres are pupils; and classes may be offered in the centres. As a rule, education in a preparatory class continues until the end of the school year when the pupil was enrolled, and it may be shortened or extended, but by no more than one school year. The Regulation also defines the organisation of work in a preparatory class, in particular the number of hours of instruction, including compulsory three hours of the Polish language taught as a foreign language, the maximum number of pupils per class (15 persons), ensuring an individual approach for each pupil. Just as before, pupils also have the right to additional classes of the Polish language – at least two hours per week, as well as additional make-up classes.

G. Right to privacy, marriage and family life, combatting domestic violence (79, 80, 81, 96, 98, 99)

110. The legality of the stay of the parents of a child born in the territory of Poland is irrelevant to the registration of the birth in Poland. A new Act – Law on Certificates of Civil Status – which took effect in March 2015, largely retained the rules of birth registration (recommendations 98, 120).

111. If a birth takes place in the territory of Poland, it is registered in the civil status register. Births are registered either based on a report of the event to the head of the civil registry office by an eligible person or proxy, or ex officio by the head of the civil registry office if the eligible person or proxy fails to report the birth of a child to the civil registry office within 21 days of the issue of the birth card. In such a case, the child's birth certificate is issued on the basis of a document submitted by the medical service provider.

Domestic violence (recommendations 79, 80, 81, 83)

112. Poland combats domestic violence with full determination. The use of corporal punishment by parents and guardians was banned in 2010. Other safeguards implemented in 2010 include a restraining order for the perpetrator, the compulsory eviction of the perpetrator, mandatory reporting of domestic violence to the authorities, and the "Blue Card" procedure.

113. In particular, work with families affected by domestic violence has been extended in recent years. The new National Programme of Preventing Domestic Violence for 2014–2020 covers a range of initiatives in response to the current challenges.

114. There are 35 special support centres for victims of domestic violence in operation. In 2015, 7,454 individuals used their services. The centres offer medical, social, psychological and legal support. The special support centres provide assistance free-of-charge 24/7. Assistance is available without referral, for a period of three months, with an option of extension of the stay.

115. Information about the advisory services is available on the websites of central institutions and local governments. The central administration also provides information including a free-of-charge guidebook for victims of violence as well as leaflets. Training is available to different target groups (e.g., the police, teachers, the healthcare sector, NGOs) including among other things the identification of domestic violence, and legal acts relating to prevention of domestic violence.

116. The programme "Prevention of Domestic Violence and Violence on Grounds of Gender" is under implementation, aimed at raising awareness of domestic violence by:

- raising awareness and sensitising the general public to domestic violence;
- improving the skills of responsible services tackling domestic violence;
- improving the efficacy of interventions and reinforcing prevention of domestic violence;
- aligning the institutional infrastructure with the needs of victims of domestic violence.

H. Equality and non-discrimination**Government Plenipotentiary for Equal Treatment (recommendations 30 and 53)**

117. The PET has the responsibilities defined in the Act of 3 December 2010 implementing certain EU legislation on equal treatment.

118. The National Action Programme for Equal Treatment for 2013–2016 is the main instrument of the Government's equal treatment policy. It is the first horizontal strategy of the Government for equal treatment in all areas of social life. It is implemented by all ministries, the Chancellery, voivodship officers and selected central institutions in cooperation with local governments and NGOs. The Programme is coordinated by the PET. The Programme is under evaluation in the second half of 2016.

119. In 2014–2016, the PET implemented a range of projects devoted to different aspects of non-discrimination. The Plenipotentiary also takes action based on findings and reports of citizens, groups of citizens, and NGOs.

**Preventing racism, xenophobia and hate crimes, combatting racist crimes
(recommendations 40, 45, 46, 47, 48, 49, 54, 55, 56, 57, 60, 62, 65)**

120. The Ministry of the Interior and Administration (MIA) has a unit responsible for the monitoring of events which could constitute hate crimes. The monitoring aims to source information about the specificity of hate crimes in Poland and the activity of law enforcement services, in particular the police, in cases of hate crimes. In view of the need to ensure a more comprehensive sourcing of data on hate crimes, a new system was put in place in 2015 to compile hate crime data, which is now shared by the police and the MIA and covers all proceedings opened in cases of hate crimes. The new data registration tool supports the collection of detailed information about the specifics of events and the activity of the police.

121. The police understand the need to intensify the fight against online hate crimes. Some of the local police departments have established task forces responsible for the work or special investigative groups.

122. Measures have been taken to encourage hate crime victims and witnesses to report the crimes to the police. The project Migrants against Hate Crimes: How to Enforce Your Rights, co-financed by the European Union, was completed in 2015 and included among other things a social campaign addressed to foreigners entitled Racism. Say it to fight it.

123. Criminal law as well as a range of specific statutes safeguard the principle of non-discrimination.

124. According to Article 53 § 2 of the CC, when deciding on the penalty, the court must always take into account the motivation of the perpetrator, including racist motivation. Article 53 of the CC applies to all crimes defined in the Code, including among other things battery and slander. The foregoing provisions are general and do not specify or restrict the motivation which the court must take into account. This is particularly important in today's fast-changing reality where new social trends emerge, including discriminatory trends. This ensures that any such motivation will always be considered by the court and that it will not require time-consuming legislative amendments at each time.

125. The crime defined in Article 212 of the CC includes among other things libel against an individual or a group, attributed with behaviour or qualities which may denigrate them among the general public or expose them to a loss of trust required in a given position, profession or activity. Furthermore, libel in the mass media is a qualified form of the crime. Hence, if a person resorts to libel in order to denigrate a person or a community on grounds of ethnicity, nationality or race, this is penalised. In turn, insult, which is penalised under Article 216 of the CC, is an offence against human dignity understood as the individual's subjective sense of self-worth. In that case, the insulted person may claim protection under Article 216 of the CC. Furthermore, Article 217 of the CC provides protection against violation of bodily integrity.

126. The Polish CC penalises incitement or glorification of any crime. Furthermore, in view of the special importance of hate crimes, the Polish legislator has introduced special liability for incitement of hate crimes. Liability is stricter for public incitement or public glorification of extermination of a national, ethnic, racial, political, religious group or a group with a specific outlook, and incitement or glorification of violence or illegal threat against a group or an individual on grounds of national, ethnic, racial, political, religious identity or lack of religion.

127. Incitement of hate on grounds of national, ethnic or racial difference is also a crime, as are among other things dissemination, production, fixation, possession, presentation of print, recording or other object containing such content. The term "incitement of hate" under the CC is understood very broadly. According to the definition coined by the

Supreme Court, incitement of hate includes any statement arousing strong resentment, anger, non-acceptance or hostility against an individual or a social or religious group. This provision also applies to statements which, due to their form, perpetuate a negative attitude, emphasising the privileged position and superiority of a nation, ethnic group, race or religion.

128. The Prosecutor Office regularly monitors cases of racial or xenophobic crimes, prepares reports on such cases, and distributes conclusions from such reports to all regional public prosecutor offices, including comments on irregularities identified in proceedings.

129. The letter of the General Public Prosecutor of 1 July 2013 orders every district public prosecutor's office to appoint one local public prosecutor's office responsible for proceedings involving racial and xenophobic crimes in the jurisdiction of the local public prosecutor's office (52 local public prosecutor's offices have been so appointed).

Training related to fighting discrimination and hate crimes (recommendation 50)

130. MIA coordinates the implementation of the Law Enforcement Officer Programme for fighting hate crimes (LEOP). The objective is to improve the skills of police officers in operations involving events which could constitute hate crimes, to train them in handling the victims of hate crimes, and to sensitise the officers to discrimination, including discrimination by police officers. Training of police officers has been delivered under the Programme since 2009. More than 86,000 police officers have participated in such training from the launch of the programme until the end of 2015.

131. The Programme was updated and extended in 2016 in line with the recent OSCE ODIHR guidance. The new version of the Programme entitled "Training Against Hate Crimes for Law Enforcement" has been approved for implementation as a special course in the police force. The first training rounds under the new programme took place at the turn of August to September 2016.

132. These measures also include workshops in fighting crimes of prejudice, implemented since 2015 by the Criminal Department of the Central Police Headquarters in cooperation with the MIA, addressed to officers of investigative units of the criminal police responsible for cases of hate crimes. The training programme focuses on specific complex issues of prosecuting hate crimes.

Preventing discrimination against migrants (recommendations 51, 63)

133. A new Foreigner Act effective since May 2014 implemented a range of human rights safeguards.

134. Foreigners may now be granted a temporary residence permit provided that:

- the foreigner's residence in Poland is necessary to respect the right to family life in the meaning of the ECHR, and the foreigner resides in Poland illegally; or
- the foreigner's departure from Poland would violate the rights of the child defined in the CRC to the extent causing a major risk to the child's psychological and physical development, and the foreigner resides in Poland illegally;
- the circumstances referred to in order to seek the permit justify the foreigner's residence in Poland for a period of more than three months.

135. A new concept has been introduced: a permit to reside in Poland for humanitarian reasons. The residence permit for humanitarian reasons is a residence permit granted to foreigners with no time limit if the foreigner could only be returned to a country where the foreigner's right to life, freedom and personal security would be at risk, the foreigner could be exposed to torture or inhuman or degrading treatment or punishment, the foreigner could

be subject to forced labour, the foreigner could be deprived of the right to due process or penalised without a legal basis, the return would violate the foreigner's right to family or private life, or the return would violate the rights of the child to the extent causing a major risk to the child's psychological and physical development. The grounds of granting the residence permit for humanitarian reasons are interpreted in accordance with the European Convention on Human Rights and Fundamental Freedoms and, in the case of minors, in line with the CRC.

136. In order to prevent illegal stay of foreigners in Poland, foreigners are allowed a 30-day period to leave Poland, for instance where the foreigner is refused a residence permit. The foreigner's stay in Poland in that period is lawful.

137. New foreigner return procedures have been introduced in Poland. Previously applicable expulsion decisions and return decisions have been replaced by return decisions under Directive 2008/115/EC of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals. The voluntary return deadline set in the return decision is normally between 15 and 30 days and may be extended to one year (hence, the maximum deadline under the Foreigners Act is longer than the minimum period of seven days allowed in Directive 2008/115/EC).

138. Provisions have been implemented which govern the participation of NGOs providing assistance to foreigners in the actual return of foreigners from Poland, as well as provisions on financial assistance for foreigners during voluntary returns.

139. The Act of 10 September 2015 amending the Act on Granting Foreigners Protection in the Territory of Poland and certain other Acts, which took effect in November 2015, implements the "asylum package", in particular the Asylum Procedure Directive and the Reception Conditions Directive (Directive 2013/32 and Directive 2013/33). The amendment was aimed at strengthening the rights of persons seeking international protection, in particular minors without a guardian and persons with special needs. The amendment introduced a rule where the court appoints a guardian for a minor without a guardian within no more than three days. As a result, the legislator safeguards the practical exercise of the rights. Furthermore, following the effective date of the amendment, the head of the Office for Foreigners (Office) has a new responsibility: to provide persons seeking international protection with free-of-charge legal information, which also reinforces the safeguards of the rights of foreigners.

140. Antidiscrimination measures, in particular measures taken at the reception centres for persons seeking international protection, are taken regularly as a part of the standard procedures applicable in centres for foreigners, and in a range of projects and programmes addressing specific issues. These cover prevention, actions in response to occurring events, and training of the staff in prevention of exclusion and all forms of discrimination. The issues raised in the recommendation are an important on-going part of the monitoring activities of the staff of the centres, and any problems are eliminated on an on-going basis. In such activities, the Office co-operates with local partners, including NGOs, as well as the local offices of UNHCR and IOM.

V. Achievements, best practice, challenges and limitations in implementation of accepted recommendations

141. The Government's first horizontal National Action Programme for Equal Treatment has been under implementation since 2013, representing major progress in equal treatment policies. The next National Action Plan against Human Trafficking for 2016–2018 has been approved as an important part of coordination of activities in this area.

142. The OSCE ODIHR has welcomed the implementation of the LEOP in Poland and considers it to be good practice.

143. The efficacy of solutions safeguarding human rights protection has been improved among other things by actions aimed at raising the awareness of the general public (including social campaigns of the PET) and training of services active in areas involving human rights. Examples:

- On 6 July 2015, the Minister of the Interior approved the Strategy of actions preventing human rights violations by border guards, which identified the key areas of human rights safeguards in the border guard service and the necessary actions;
- Human rights have been added to all border guard qualified training programmes (basic training, sub-officer, junior officer and senior officer training) and management training.

144. Major changes were implemented among other things in the Foreigners Act of 12 December 2013. The changes relate to the application of detention measures with respect to foreigners (guarded centres for foreigners and detention for foreigners) and allow the competent border guard authorities to release foreigners from guarded centres and detention centres for foreigners at the request of the foreigner or on their own initiative without having to apply for a court decision, as well as measures which are alternatives to the detention of foreigners (relevant decisions are issued by border guard authorities and district courts) including mandatory regular reporting to border guard authorities, bail in an amount at least equal to twice the minimum wage under the minimum wage regulations, mandatory deposit of travel documents with the competent authority, and mandatory residence at a specific location until the return decision is enforced.

VI. Priorities, initiatives and commitments planned to prevent challenges in implementation of recommendations and improvement of human rights safeguards

145. Since the second UPR, Poland has signed and/or ratified a range of important international conventions. Their comprehensive implementation is currently one of the top priorities.

146. We are planning to continue initiatives and assistance programmes operated by the Office under the Asylum, Migration and Integration Fund and other financial mechanisms. We expect to work against racial discrimination and xenophobia in cooperation of the central government and local governments, educational institutions, NGOs and foreign partners.

147. According to the requirements of the Act on the Educational System, which provides that education in Poland follows the principles enshrined in the Constitution and the guidance of the Universal Declaration of Human Rights, the ICCPR, and the Convention on the Rights of the Child, human rights and the rights of the child have been and will remain a part of the school curricula.

148. It is a priority of the PET to plan actions in continuation of the National Action Programme for Equal Treatment for 2013–2016.

149. The priorities of the PET and the PCS include cooperation with NGOs and extension of the range of partner organisations.

150. Work is advanced on a draft national action plan on the UN Guidelines implementation on business and human rights.

Notes

- ¹ The head of central government institutions at regional level.
 - ² See also para. 35 of this chapter.
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Compilation on Poland**Report of the Office of the United Nations High Commissioner for Human Rights****I. Background**

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of the information contained in the reports of treaty bodies and special procedures and other relevant the United Nations documents, presented in a summarized manner owing to word-limit constraints.

II. Scope of international obligations and cooperation with international human rights mechanisms and bodies^{1,2}

2. Several treaty bodies recommended that Poland ratify the International Convention for the Protection of All Persons from Enforced Disappearance³ and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.⁴ The Committee on the Rights of the Child, the Committee against Torture and the Special Rapporteur on the right to food recommended that Poland ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.⁵ The Committee against Torture, the Committee on Economic, Social and Cultural Rights and the Special Rapporteur recommended that Poland ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.⁶

3. The Office of the United Nations High Commissioner for Refugees (UNHCR), the Committee on the Rights of the Child and the Committee against Torture urged Poland to consider acceding to the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.⁷

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4. The Committee on the Rights of the Child encouraged Poland to consider withdrawing its interpretative declaration regarding articles 12 to 16 and 24 of the Convention on the Rights of the Child.⁸
5. The Committee on Economic, Social and Cultural Rights recommended that Poland ensure that all provisions of the Covenant were given full effect in its domestic legal order and could be invoked before courts.⁹
6. The United Nations High Commissioner for Human Rights visited Poland and paid respects at Auschwitz in 2013.¹⁰ Poland had contributed annually to OHCHR since 2012.¹¹
7. Poland submitted a midterm report on the implementation of the recommendations made in its second review cycle.¹²

III. National human rights framework¹³

8. Several treaty bodies were concerned about the limited resources allocated to the Office of the Commissioner for Human Rights, which jeopardized its ability to exercise its mandate.¹⁴ The Human Rights Committee and the Committee on Economic, Social and Cultural Rights recommended that Poland provide the resources necessary to the Office to ensure it could implement its mandate effectively, independently and fully.¹⁵
9. The Committee on the Elimination of Racial Discrimination was concerned that the Office of the Commissioner had no statutory mandate to consider petitions from victims of racial discrimination concerning incidents that occurred in the private area.¹⁶
10. The Committee on the Elimination of Discrimination against Women recommended that Poland strengthen the mandate and authority of the Government Plenipotentiary for Equal Treatment and that it increase the Plenipotentiary's financial and human resources, while providing it with a separate budget to support its gender equality activities.¹⁷
11. The Human Rights Committee recommended that Poland consider either reinstating the Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance, or establishing an alternative multi-stakeholder institution with the objective of preventing discrimination and intolerance.¹⁸ UNHCR made a similar recommendation.¹⁹

IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

1. Equality and non-discrimination²⁰

12. The Human Rights Committee and the Committee on Economic, Social and Cultural Rights recommended that Poland amend the Act on Equal Treatment to prohibit discrimination comprehensively on all grounds prohibited under the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, including sexual orientation, disability, religion, age and political opinion, and in all spheres and sectors, including education, health care, social protection and housing.²¹ The Committee on the Rights of the Child made a similar recommendation.²²
13. The Human Rights Committee was concerned that the Criminal Code did not refer to disability, age, sexual orientation or gender identity as grounds for hate crimes.²³ The Committee against Torture recommended that Poland amend the Code to punish hate

crimes and acts of discrimination and violence based on sexual orientation, disability or age.²⁴ The Committee on the Rights of the Child made a similar recommendation.²⁵ The Committee on the Elimination of Racial Discrimination recommended that Poland amend its Criminal Code to make any racial motivation of a crime an aggravating circumstance and to allow for enhanced punishment to combat the occurrence of such acts.²⁶

14. The Human Rights Committee was concerned about the reported increase in the number of incidents of violence, hate speech and discrimination based on race, nationality, ethnicity, religion and sexual orientation and the insufficient response by the authorities to such incidents.²⁷

15. The Committee on the Elimination of Racial Discrimination was concerned by reports that some victims of hate crimes were unwilling to report incidents owing to doubts about the ability and interest of law enforcement officials in providing adequate recourse. It recommended that Poland establish an independent body to receive complaints of police violence or abuse and take the measures necessary to ensure that persons belonging to minority groups were recruited into the police.²⁸

16. The Committee expressed concern about reports that at least four far-right organizations remained active despite a 2009 court decision in Brzeg to ban organizations that promoted fascism and totalitarian regimes.²⁹ It recommended that Poland enforce effectively those laws that declared as illegal any party or organization that promoted or incited racial discrimination.³⁰

17. The Committee recommended that Poland seek efficient means to combat racism in sport, including by imposing fines on clubs for the racist acts of their supporters, and that it continue to work with sporting associations to promote tolerance and diversity.³¹

18. The Committee against Torture was concerned at the prevalence of racial violence and other acts of racial abuse targeting persons of Arab, Asian or African origin, and manifestations of anti-Semitism.³² The Committee on the Elimination of Racial Discrimination was concerned about information regarding the attitude of certain Polish authorities that had discontinued investigations in some cases of anti-Semitism on the grounds that the victim had not belonged to the Jewish community.³³

19. UNHCR mentioned reports of a sharp increase in xenophobic and discriminatory attitudes towards asylum seekers and beneficiaries of international protection. Some of the incidents involved the reluctance of communities to accept reception centres.³⁴

20. The Committee against Torture was concerned at persistent discrimination against members of the Roma community.³⁵ The Committee on the Rights of the Child urged Poland to conduct campaigns at all levels and in all provinces to address the negative attitudes towards Roma in society at large.³⁶

21. The Committee on the Elimination of Discrimination against Women pointed to the limited effectiveness, if any, of measures to counter negative stereotypes against Roma women, lesbian, bisexual, transgender and intersex women and women with disabilities.³⁷

22. The Human Rights Committee recommended that Poland review the legal status of same-sex couples and parents with a view to ensuring their enjoyment of the right to non-discrimination in law and in fact.³⁸

2. Development, the environment, and business and human rights³⁹

23. The Committee on the Rights of the Child was concerned that the child sex tourism industry was reportedly growing in border regions and recommended that Poland examine and adapt its legislative framework to ensure the legal accountability of business enterprises and their subsidiaries operating in or managed from the territory of Poland.⁴⁰

3. Human rights and counter-terrorism⁶⁰

24. The Committee against Torture was concerned about lengthy delays in the investigation process into the alleged complicity of Poland in rendition and secret detention programmes of a third country between 2001 and 2008, which allegedly involved torture and ill-treatment of persons suspected of involvement in terrorism-related crimes. It was also concerned about the secrecy surrounding the investigation and the failure to ensure accountability in the cases. It recommended that Poland inform the public, ensure its investigation process was transparent and cooperate fully with the European Court of Human Rights on the rendition and secret detention cases against Poland.⁶¹ The Human Rights Committee made similar recommendations.⁶²

25. The Committee recommended that Poland review its legislation on counter-terrorism of June 2016 to ensure that the Criminal Code not only defined terrorist crimes in terms of purpose, but also narrowly defined the nature of these acts, and included a precise definition of "terrorist incidents" that did not give the authorities excessive discretion or obstruct the exercise of the rights under the International Covenant on Civil and Political Rights.⁶³

B. Civil and political rights

1. Right to life, liberty and security of person⁶⁴

26. The Committee against Torture regretted that, despite its previous recommendations on the matter, Poland still maintained its position on not incorporating into domestic law the definition of torture in accordance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It was seriously concerned that the other provisions of the Criminal Code that were "applied in cases of torture" did not reflect the gravity of the crime of torture and therefore did not provide for commensurate punishment for the perpetrators. It recommended that Poland include torture as a separate and specific crime in its legislation.⁶⁵ The Human Rights Committee made a similar recommendation.⁶⁶

27. The Committee against Torture recommended that Poland undertake promptly an effective and impartial investigation whenever there were reasonable grounds to believe that an act of torture or ill-treatment had been committed.⁶⁷ It urged Poland to take immediate legal and other measures to ensure that victims of torture and ill-treatment obtained redress and had an enforceable right to fair and adequate compensation.⁶⁸ The Human Rights Committee made similar recommendations.⁶⁹

28. In relation to overcrowding in prisons, the Committee against Torture was concerned at reports that approximately 40,000 convicts were awaiting enforcement of their punishment and some 12,000 Polish prisoners were expected to be returned from other countries.⁷⁰

29. The Committee was also concerned that dangerous "N" status inmates were often kept in worse conditions than others for long periods of time and that their status was not reviewed regularly.⁷¹

2. Administration of justice, including impunity, and the rule of law⁷²

30. In December 2015, OHCHR expressed concern about the speed with which the parliament was adopting changes affecting the Constitutional Tribunal, noting that reforms of such far-reaching importance should be the product of broad public consultation.⁷³

31. The United Nations High Commissioner for Human Rights stated that the constitutional crisis was regrettable. He took note of an opinion issued by the European Commission and encouraged Poland to cooperate under the European Union rule of law

framework and benefit from the expertise of the country's highly respected Office of the Commissioner for Human Rights.⁵⁵

32. The Human Rights Committee was concerned about the negative impact of legislative reforms, including the amendments of November and December 2015 and July 2016 to the law on the Constitutional Tribunal, and the fact that some judgments of that Tribunal had been disregarded regarding its functioning and independence and regarding the implementation of the Covenant. It was also concerned about the refusal of the Prime Minister to publish the Tribunal's judgments of March and August 2016 regarding the efforts of the Government to change the composition of the Tribunal in ways that the Tribunal regarded as unconstitutional, and regarding the legal proceedings initiated against the President of the Tribunal for alleged abuse of power.⁵⁶

33. The Committee recommended that Poland ensure respect for and protection of the integrity and independence of the Tribunal and its judges and ensure the implementation of all its judgments. It urged Poland to publish all the judgments of the Tribunal immediately; refrain from introducing measures that could obstruct its effective functioning; and ensure a transparent and impartial process on appointing its members and on security of tenure that met all the requirements of legality under domestic and international law.⁵⁷

34. The Committee recommended that Poland take immediate steps to protect the full independence and impartiality of the judiciary; guarantee its freedom to operate without interference; and ensure the above-mentioned processes on appointments and security of tenure.⁵⁸

35. The Committee against Torture was concerned that lengthy court proceedings had created a backlog in the court system.⁵⁹ The Human Rights Committee recommended that Poland ensure the right to a fair trial without undue delay.⁶⁰

36. The Committee against Torture recommended that Poland end the practice of extending pretrial detention beyond the maximum period prescribed by law.⁶¹ The Human Rights Committee recommended that Poland continue to reduce the length of pretrial detention and adopt non-custodial alternatives; review periodically the length of pretrial detention to determine its necessity and guarantee the right to a trial within a reasonable time; and limit the application of pretrial detention under the Code of Criminal Procedure and the counter-terrorism law.⁶²

37. The Committee against Torture was concerned that prison authorities reserved the right to be present at all meetings between detainees and their defence counsel and to monitor their telephone communications and correspondence.⁶³ The Human Rights Committee recommended that Poland ensure that all communication between counsel and the accused remained confidential.⁶⁴

38. The Committee against Torture remained concerned at the lack of an appropriate system of legal aid.⁶⁵ The Committee on the Rights of the Child was concerned that there was no State-funded, free legal assistance for asylum seekers, including for unaccompanied children.⁶⁶

39. The Human Rights Committee recommended that Poland ensure that all detainees, including juveniles, had unhindered, prompt and adequate access to the lawyer of their choice or free legal aid from the outset of the detention.⁶⁷

40. The Committee on the Rights of the Child was concerned that the 2014 amendment to the Juvenile Justice Act, which established uniform juvenile justice proceedings that applied the procedures of the Civil Procedure Code, might deprive children of procedural guarantees provided under the Criminal Procedure Code, such as the presumption of innocence and the right to counsel.⁶⁸

3. Fundamental freedoms and the right to participate in public and political life⁶⁹

41. The Committee on the Rights of the Child was concerned at incidents of children belonging to religious minorities not being offered classes in their own religion in public schools and having to participate in Catholic religion classes instead. It was also concerned that grades obtained in Islamic religion classes were not always recorded on school certificates.⁷⁰

42. The Human Rights Committee recommended that Poland review its laws on defamation and insulting State symbols, senior officials and religion, and consider decriminalizing defamation by amending the Criminal Code.⁷¹ The United Nations Educational, Scientific and Cultural Organization (UNESCO) made a similar recommendation.⁷²

43. The Human Rights Committee was concerned about past and proposed legislative changes regarding public broadcasting services, which appeared retrogressive in terms of protecting guarantees regarding their independence.⁷³

44. The Committee recommended that Poland review the draft law under which anyone who referred to Nazi camps in occupied Poland during the Second World War as Polish could be imprisoned for up to three years.⁷⁴

45. The Committee on Economic, Social and Cultural Rights recommended that Poland implement as soon as possible the legislative changes required by the 2015 judgment of the Constitutional Tribunal on the right of persons employed under civil law contracts to join or establish trade unions.⁷⁵ The International Labour Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations trusted that Poland would adopt a draft act amending the Act on Trade Unions to guarantee the right of all workers, without distinction, to establish and join organizations of their own choosing.⁷⁶

4. Prohibition of all forms of slavery⁷⁷

46. The Committee on the Elimination of Discrimination against Women regretted the limited measures taken to reduce the demand for prostitution and to provide alternative income-generating opportunities for women who wished to leave prostitution.⁷⁸

47. The Committee welcomed amendments to the Criminal Code to include a definition of trafficking and penalize the perpetration of that crime.⁷⁹ The Committee on the Rights of the Child welcomed the amendment to the Criminal Code that expanded the scope of trafficking to include trafficking for labour exploitation.⁸⁰

48. The Committee was concerned that lack of awareness among prosecutors and judges had resulted in a low rate of conviction of perpetrators of trafficking, a high rate of less severe or suspended sentences and inappropriate decisions on the protection of child victims.⁸¹

49. The Human Rights Committee recommended that Poland introduce into the Criminal Code a provision to exempt victims of trafficking from prosecution for activities they had been involved in as a direct consequence of being trafficked; establish a mechanism to identify vulnerable persons within the migration flow; prohibit forced labour; investigate allegations of trafficking, prosecute alleged perpetrators and punish with appropriate sanctions those convicted; and provide victims with access to legal assistance and reparation.⁸²

5. Right to privacy and family life⁸³

50. The Human Rights Committee was concerned about the surveillance and interception powers of Polish intelligence and law enforcement authorities, as reflected in

the counter-terrorism law and 2016 act amending the Police Act and certain other acts. It recommended that Poland review its counter-terrorism legislation and ensure that any interference with the right to privacy therein complied with the principles of legality, necessity and proportionality.⁸¹

51. The Committee on the Rights of the Child was concerned at the tendency of family court judges to place children in institutional care rather than prioritize the provision of support to the family of origin or choose placement in family-based care; and that restriction of contact with the family of origin was used as a form of punishment for children placed in foster care.⁸²

52. The Committee recommended that Poland reduce as a matter of urgency the placement of children under the age of 3 years in residential care institutions and that it review and consider amending the Family Support and Foster Care System Act and the Human Capital Development Strategy to abolish pre-adoption centres for children under 1 year of age and avoid large residential-care institutions.⁸³

C. Economic, social and cultural rights

1. Right to work and to just and favourable conditions of work⁸⁴

53. The Committee on Economic, Social and Cultural Rights recommended that Poland ensure access to basic services and labour and social protection for those working in the informal economy; empower the National Labour Inspectorate to inspect all sectors of the economy and increase its resources and capacity; and protect migrant workers from all forms of exploitation and abuse.⁸⁵

54. The Committee on the Elimination of Discrimination against Women recommended that Poland take measures to overcome the obstacles preventing the submission of complaints of sexual harassment in the workplace to the Office of the Commissioner,⁸⁶ and that it strengthen the mandate of the National Labour Inspectorate to investigate complaints of gender discrimination and, in particular, sexual harassment.⁸⁷

55. The Committee on Economic, Social and Cultural Rights recommended that Poland take all measures appropriate to reduce progressively the use of temporary employment; continue to increase the minimum wage to ensure it provided a decent living for workers and their families; and ensure that the labour and social security rights of persons with civil law contracts were fully guaranteed in law and in practice.⁸⁸

2. Right to social security⁸⁹

56. The Committee on Economic, Social and Cultural Rights recommended that Poland adopt measures towards unifying the pension system and standardizing rules and regulations; guarantee coverage and appropriate benefits for all workers and non-contributory benefits for all disadvantaged and marginalized individuals and families; calculate social assistance benefits on the basis of an accurate poverty assessment; and address the practical difficulties faced by disadvantaged and marginalized individuals and groups in seeking and receiving assistance.⁹⁰

3. Right to an adequate standard of living⁹¹

57. The Special Rapporteur on the right to food was concerned that there was no disaggregated data on poverty and extreme poverty levels in rural and urban areas, with a specific focus, *inter alia*, on gender, age, education, wealth and family size.⁹² The Committee on Economic, Social and Cultural Rights recommended that Poland step up its efforts to guarantee targeted support to all persons living in poverty or at risk of poverty.⁹³

and to address food insecurity and malnutrition among disadvantaged and marginalized individuals and groups.¹⁰⁷

58. The Committee on the Elimination of Racial Discrimination was concerned about information that non-citizens, particularly migrants and refugees, faced discrimination in housing, as landlords were often reluctant to lease apartments to foreign nationals or to sign agreements with them.¹⁰⁸

4. Right to health¹⁰⁹

59. The Committee on Economic, Social and Cultural Rights recommended that Poland intensify its efforts to ensure that adequate health-care services were available and accessible for everyone, including disadvantaged and marginalized individuals and groups.¹¹⁰

60. The Committee recommended that Poland increase the provision of financial and human resources for mental health services; guarantee full respect for the human rights of patients in psychiatric institutions, including through independent and effective monitoring of treatment and through effective judicial review of orders for confinement to psychiatric institutions; ensure that treatment was provided on the basis of free and informed consent; and promote alternative forms of mental health treatment, including outpatient treatment.¹¹¹

61. The Committee against Torture and the Human Rights Committee were concerned about clandestine abortions, which might put the lives and health of women at risk.¹¹² The Committee on the Elimination of Discrimination against Women recommended that Poland amend the 1993 Act on Family Planning, Human Fetus Protection and Preconditions for the Admissibility of Abortion to make the conditions for abortion less restrictive; establish clear standards for a uniform and non-restrictive interpretation of the conditions for legal abortion, so that women could have access to it without limitations due to the excessive use by medical personnel of the so-called "conscientious objection" clause; and ensure effective remedies for contesting refusals of abortion, within the revision of the Act on Patient Rights.¹¹³ The Committee on the Rights of the Child made similar recommendations.¹¹⁴

62. The Committee recommended that Poland expand the scope of the compulsory course on family life education to provide comprehensive and age-appropriate education on sexual and reproductive health; and ensure unimpeded access to sexual and reproductive health services.¹¹⁵ The Committee on the Elimination of Discrimination against Women and the Committee on Economic, Social and Cultural Rights made similar recommendations.¹¹⁶

5. Right to education¹¹⁷

63. The Committee on the Rights of the Child remained concerned that children living in rural areas and small towns still faced inequality in gaining access to quality education.¹¹⁸ The Committee on Economic, Social and Cultural Rights recommended that Poland ensure that such children and those who were asylum seekers or undocumented migrants had free access to quality compulsory primary education, and that it encourage education in rural and remote areas.¹¹⁹

64. The Committee on the Elimination of Discrimination against Women remained concerned about structural barriers negatively affecting the enrolment of girls and women in non-traditional educational and vocational fields and gender segregation in the educational system.¹²⁰

65. UNHCR and the Committee on the Rights of the Child remained concerned that asylum-seeking children placed in detention centres did not have access to full-time education.¹²¹ The Committee on the Elimination of Racial Discrimination recommended that Poland fully implement the revised Act on the Education System to address the

educational difficulties that asylum-seeking children faced by providing language classes or tutorial assistance in their mother tongue.¹¹²

66. The Committee on the Rights of the Child remained concerned that children with HIV/AIDS tended to be segregated in preschool and compulsory education.¹¹³

D. Rights of specific persons or groups

1. Women¹¹⁴

67. The Committee on the Elimination of Discrimination against Women recommended that Poland review the Act on Equal Treatment to ensure that anti-discrimination legislation contained a definition of discrimination against women explicitly prohibiting sex- and gender-based discrimination.¹¹⁵

68. The Committee was concerned about the low number of complaints of sex- and gender-based discrimination where compensation had been awarded;¹¹⁶ the limited application of administrative sanctions; and the inadequate means of redress in cases of sex- and gender-based discrimination.¹¹⁷ It recommended that Poland ensure the effective application of administrative sanctions by the Office of the Commissioner.¹¹⁸

69. The Committee was concerned at the reported increase of stereotypical and sometimes degrading media images of women, which perpetuated sexual violence, including rape, and at the absence of revised textbooks.¹¹⁹ The Committee on the Rights of the Child, the Committee on Economic, Social and Cultural Rights and the Human Rights Committee were concerned about persistent stereotypes concerning the roles and responsibilities of both genders in the family and in society.¹²⁰

70. The Committee on the Elimination of Discrimination against Women urged Poland to adopt a comprehensive strategy aimed at preventing and eliminating all forms of violence against women;¹²¹ amend the Criminal Code with a view to specifically criminalizing domestic violence and marital rape; include a definition of violence against women in the Act on Countering Domestic Violence;¹²² and systematically institute criminal proceedings, end the use of reconciliatory mediation for victims of domestic violence, prosecute alleged perpetrators and punish those found guilty of such acts.¹²³ The Committee against Torture, the Human Rights Committee and the Committee on Economic, Social and Cultural Rights raised similar concerns and made recommendations.¹²⁴

71. The Committee on the Elimination of Discrimination against Women recommended that Poland adopt temporary special measures to promote access for women to employment; review its legislation and policies to promote equal opportunities for and equal treatment of women in employment; and ensure equal remuneration for work of equal value.¹²⁵ The Committee on Economic, Social and Cultural Rights and the Human Rights Committee made similar recommendations.¹²⁶

72. The Committee on the Elimination of Discrimination against Women encouraged Poland to amend the Electoral Act with a view to placing male and female candidates in alternating positions on electoral lists; and to adopt temporary special measures to achieve the equal and full participation of women in political and public life and in decision-making at all levels.¹²⁷ The Human Rights Committee and the Committee on Economic, Social and Cultural Rights made similar recommendations.¹²⁸

73. The Committee on the Elimination of Discrimination against Women recommended that Poland facilitate the participation of rural women in decision-making processes at the local level, particularly in the boards of *voivodeship* (regional) agricultural chambers, so as to address the high risk of female poverty in rural areas.¹²⁹

2. Children¹³⁰

74. The Committee on the Rights of the Child commended Poland for legislating a total ban on corporal punishment in all settings. However, it was concerned that corporal punishment was still used in schools, youth centres and alternative-care facilities.¹³¹

75. The Committee was concerned about ill-treatment of children in police emergency youth centres, youth shelters or reform schools, including extended periods of detention in a transitional facility, penalties not compliant with the regulations, constraints on correspondence and complaints and restrictions on visits.¹³²

76. The Committee was seriously concerned that a large number of children were still detained in juvenile shelters for extensive periods of time prior to and during correctional proceedings, and that children over the age of 13 years who were reasonably suspected of or convicted of a punishable act could be detained at police emergency centres.¹³³

77. The Committee noted with concern cases of forced marriages of girls in situations of migration and refugee and asylum-seeking girls.¹³⁴

78. The Committee was concerned that a number of cases of sexual abuse of children by clergy might not yet have surfaced and that such abuse might still be ongoing.¹³⁵

79. The Committee was concerned that, in criminal proceedings relevant to sexual exploitation of the child, the burden of proof tended to be placed on the child victims rather than offenders.¹³⁶

80. The Committee was concerned that there was neither systematic effort to protect and support children engaged in begging, nor consistent policy as to what kind of protection measures would safeguard the best interests of the child.¹³⁷

81. The Committee and the Special Rapporteur on the right to food expressed concern about child poverty.¹³⁸ The Committee was concerned about the increase of homeless children and recommended that Poland review its legislation, policies and programmes on housing to prevent and eliminate homelessness.¹³⁹

82. The Committee reiterated its previous recommendation that Poland establish an identification mechanism for children, including asylum-seeking and refugee children, who might have been involved in armed conflict abroad and provide such children with appropriate assistance for their physical and psychological recovery and social reintegration.¹⁴⁰

3. Persons with disabilities¹⁴¹

83. The Human Rights Committee was concerned that, according to the Constitution, persons who, by a final court judgment, had been subjected to legal incapacitation or deprived of public or electoral rights, had no right to participate in a referendum or to vote. As a result, any person with mental and intellectual disabilities who was subject to incapacitation had no voting rights.¹⁴²

84. The Committee on the Rights of the Child was concerned that, despite the progress made in deinstitutionalization, many children with disabilities still lived in institutions.¹⁴³

85. The Committee was concerned that access to health and rehabilitation services by children with disabilities was particularly impeded, owing to the physical barriers to health service facilities and a lack of available services.¹⁴⁴

86. The Committee recommended that Poland guarantee all children with disabilities the right to inclusive education in mainstream schools, and that it develop a system at the local level to monitor the management of education subsidies dedicated to children with

disabilities in order to ensure the provision of reasonable accommodation and support for each child with a disability.¹⁴⁵

4. Minorities¹⁴⁶

87. The Committee on Economic, Social and Cultural Rights recommended that Poland review its legislation and various programmes for unemployed persons to determine how access to employment could be improved for target groups, including Roma.¹⁴⁷

88. The Committee on the Rights of the Child was concerned that Roma families with children living in informal settlements faced forced eviction.¹⁴⁸ The Committee on Economic, Social and Cultural Rights recommended that Poland facilitate access to social housing for Roma, encourage legal security of tenure for those living in informal settlements and improve living conditions therein; take effective measures to end the segregation of Roma communities and prevent acts of discrimination against those who wished to buy or rent housing outside their segregated settlements; and consult with the communities and individuals affected throughout the eviction procedures, afford due process guarantees and provide those affected with alternative accommodation or compensation.¹⁴⁹

89. The Committee on the Rights of the Child was concerned that, while Polish law provided for free medical care for Polish nationals, that did not extend to Roma children living in poverty.¹⁵⁰

90. The Committee remained concerned that participation in preschool, primary, secondary and vocational education remained lower for Roma children than for other children, and that many Roma children still faced difficulties keeping up in mainstream schools or were wrongly placed in special schools owing to their low level of understanding of the Polish language and culturally insensitive testing.¹⁵¹ The Committee on Economic, Social and Cultural Rights raised similar concerns.¹⁵²

91. The Committee on the Elimination of Discrimination against Women recommended that Poland reduce the high dropout rates of Roma girls from primary education, take effective measures to retain them in school and increase their attendance at the secondary level through temporary special measures and support.¹⁵³ UNESCO recommended that Poland implement equal access to education, especially for Roma girls and migrants.¹⁵⁴

92. The Committee on Economic, Social and Cultural Rights recommended that Poland intensify its efforts in furthering the protection and promotion of the cultural identity of minorities by, among other measures, increasing the provision of resources to assist organizations and institutions working in the area of cultural identities of minorities, and by protecting and promoting the use of national and ethnic minority languages, including in school and in public life.¹⁵⁵

5. Migrants, refugees and asylum seekers¹⁵⁶

93. The Committee on the Elimination of Racial Discrimination, the Committee against Torture, the Committee on the Rights of the Child and UNHCR were concerned that the Foreigners Act still provided for the possibility of placing asylum-seeking children in detention.¹⁵⁷

94. The Committee against Torture was concerned that foreigners could be expelled from Poland without having their expulsion decision reviewed by an independent and impartial mechanism. It was also concerned that Poland had not been respecting the principle of non-refoulement as it had sometimes refused to recognize a foreigner's refugee status as the reason to refuse extradition to a country where his or her life would be threatened.¹⁵⁸

95. The Human Rights Committee recommended that Poland refrain from detaining asylum seekers and migrants, implement alternatives and, in cases where individuals were detained, ensure that the detention was reasonable, necessary and proportionate under the circumstances and reassessed over time; ensure that children were deprived of liberty only as a measure of last resort; ensure that access to asylum was not obstructed on grounds of religious discrimination or other grounds prohibited by the Covenant; and establish a system of proper screening to ensure asylum seekers were not returned to a country where there were substantial grounds for believing that there was a real risk of irreparable harm.¹⁵⁹

96. UNHCR indicated that asylum seekers and refugees living outside of reception facilities faced difficulties in gaining access to sexual and gender-based violence prevention and response assistance, owing in part to geographic distance and/or isolation.¹⁶⁰

97. UNHCR stated that the national response system on sexual and gender-based violence, known as the "blue line", had limited interpretation services and was not prepared to respond to the particular needs of asylum-seeking and refugee survivors of such violence owing to their limited knowledge of cultural differences and refugee situations, including possible traumatic experiences relating to past persecution.¹⁶¹

98. UNCHR noted that, according to Polish law, when medical or psychosocial examinations indicated that a person had been a victim of violence or was disabled, he or she should be provided with support and appropriate treatment during the asylum procedure. However, it was concerned that, in practice, there was limited systematic support available for the proper identification of such persons and their treatment.¹⁶²

99. The Committee on the Rights of the Child was concerned that the procedures for family reunification were not physically and economically accessible by many asylum seekers and refugees and were overly demanding in terms of requirements for documentation and physical verification of applicants.¹⁶³

100. The Committee on the Elimination of Racial Discrimination was concerned that non-citizens, particularly migrants and refugees, were reportedly paid lower salaries and worked longer hours without official contracts.¹⁶⁴

6. Stateless persons¹⁶⁵

101. UNHCR noted that the Polish national legal framework still had gaps that might lead to statelessness, particularly the fact that children born to parents who were non-nationals or children whose fathers had denied paternity could not acquire citizenship.¹⁶⁶

102. According to UNHCR, stateless persons were left in a legal limbo owing to the lack of a statelessness determination procedure. Without a passport or travel documents, they could not leave the Polish territory. In addition, the absence of a work permit prevented access to social benefits and public health care.¹⁶⁷

103. The Committee on the Rights of the Child was concerned that, according to the 2014 census, 2,000 stateless persons and over 8,000 foreigners with undetermined nationalities, including children, resided in Poland.¹⁶⁸

Notes

- ¹ Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for Poland will be available at www.ohchr.org/EN/HRBodies/UPR/Pages/PLSession27.aspx.
- ² For relevant recommendations, see A/HRC/21/14, paras. 90.1, 90.4, 90.10-90.13, 90.15, 90.20, 90.22-90.25 and 90.29.
- ³ See CERD/C/POL/CO/20-21, para. 16, CRC/C/POL/CO/3-4, paras. 63, CEDAW/C/POL/CO/7-8, para. 48, CAT/C/POL/CO/5-6, para. 27, and E/C.12/POL/CO/6, para. 61.
- ⁴ See CEDAW/C/POL/CO/7-8, para. 48, CRC/C/POL/CO/3-4, paras. 63, CAT/C/POL/CO/5-6, para. 27, and E/C.12/POL/CO/6, para. 61.
- ⁵ See CRC/C/POL/CO/3-4, para. 62, and CAT/C/POL/CO/5-6, para. 27. See also www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19870&LangID=E.
- ⁶ See CAT/C/POL/CO/5-6, para. 27, E/C.12/POL/CO/6, para. 60, and www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19870&LangID=E.
- ⁷ UNHCR submission for the universal periodic review of Poland, p. 6. See also CRC/C/POL/CO/3-4, para. 19 (c), and CAT/C/POL/CO/5-6, para. 27.
- ⁸ See CRC/C/POL/CO/3-4, para. 7.
- ⁹ See E/C.12/POL/CO/6, para. 6 (a).
- ¹⁰ See www.ohchr.org/EN/NewsEvents/Pages/EveryoneReturnedablindeye.aspx.
- ¹¹ OHCHR, "Donor profiles", in *OHCHR Report 2015*, p. 114. For 2016, see www.ohchr.org/Documents/AboutUs/FundingBudget/VoluntaryContributions2016.pdf.
- ¹² See <http://lib.ohchr.org/HRBodies/UPR/Documents/session13/PL/ImplementationPoland.pdf>.
- ¹³ For relevant recommendations, see A/HRC/21/14, paras. 90.30, 90.32-90.35 and 90.61.
- ¹⁴ See CCPR/C/POL/CO/7, paras. 5-6, E/C.12/POL/CO/6, paras. 8-9, CERD/C/POL/CO/20-21, para. 9, CEDAW/C/POL/CO/7-8, para. 14, and CAT/C/POL/CO/5-6, para. 16. See also <http://nhri.ohchr.org/EN/Documents/Status/%20Accreditation%20Chart.pdf>.
- ¹⁵ See CCPR/C/POL/CO/7, paras. 5-6, and E/C.12/POL/CO/6, para. 9.
- ¹⁶ See CERD/C/POL/CO/20-21, para. 9.
- ¹⁷ See CEDAW/C/POL/CO/7-8, para. 17 (a)-(b).
- ¹⁸ See CCPR/C/POL/CO/7, para. 18.
- ¹⁹ UNHCR submission, p. 3.
- ²⁰ For relevant recommendations, see A/HRC/21/14, paras. 90.40, 90.45-90.57, 90.60, 90.62-90.71, 90.94 and 90.97.
- ²¹ See CCPR/C/POL/CO/7, paras. 13-14, and E/C.12/POL/CO/6, paras. 10-11.
- ²² See CRC/C/POL/CO/3-4, paras. 16 (a) and 17 (a).
- ²³ See CCPR/C/POL/CO/7, para. 15.
- ²⁴ See CAT/C/POL/CO/5-6, para. 25.
- ²⁵ See CRC/C/POL/CO/3-4, para. 17 (b).
- ²⁶ See CERD/C/POL/CO/20-21, para. 8.
- ²⁷ See CCPR/C/POL/CO/7, para. 15.
- ²⁸ See CERD/C/POL/CO/20-21, para. 11.
- ²⁹ *Ibid.*, para. 10.
- ³⁰ *Ibid.*, para. 10.
- ³¹ *Ibid.*, para. 10.
- ³² See CAT/C/POL/CO/5-6, para. 25. See also CERD/C/POL/CO/20-21, para. 12.
- ³³ See CERD/C/POL/CO/20-21, para. 14.
- ³⁴ UNHCR submission, p. 3.
- ³⁵ See CAT/C/POL/CO/5-6, para. 25. See also CERD/C/POL/CO/20-21, para. 12.
- ³⁶ See CRC/C/POL/CO/3-4, paras. 46 (a) and 47 (a). See also CERD/C/POL/CO/20-21, para. 12.
- ³⁷ See CEDAW/C/POL/CO/7-8, para. 22.
- ³⁸ See CCPR/C/POL/CO/7, para. 10.
- ³⁹ For relevant recommendations, see A/HRC/21/14, paras. 90.31, 90.83 and 90.86.
- ⁴⁰ See CRC/C/POL/CO/3-4, paras. 58 and 59 (b) and (f).
- ⁴¹ For relevant recommendations, see A/HRC/21/14, paras. 90.122-90.124.
- ⁴² See CAT/C/POL/CO/5-6, para. 16 (c).

- ⁴³ See CCPR/C/POL/CO/7, para. 12.
- ⁴⁴ *Ibid.*, para. 10.
- ⁴⁵ For relevant recommendations, see A/HRC/21/14, paras. 90.58, 90.72, 90.74-90.77 and 90.95.
- ⁴⁶ See CAT/C/POL/CO/5-6, para. 7.
- ⁴⁷ See CCPR/C/POL/CO/7, para. 26 (a).
- ⁴⁸ See CAT/C/POL/CO/5-6, paras. 18.
- ⁴⁹ *Ibid.*, para. 21.
- ⁵⁰ See CCPR/C/POL/CO/7, para. 26 (b).
- ⁵¹ See CAT/C/POL/CO/5-6, para. 19.
- ⁵² *Ibid.*, para. 20.
- ⁵³ For relevant recommendations, see A/HRC/21/14, paras. 90.87-90.93.
- ⁵⁴ See <http://europe.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10056&LangID=E>.
- ⁵⁵ See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20086&LangID=E.
- ⁵⁶ See CCPR/C/POL/CO/7, para. 7.
- ⁵⁷ *Ibid.*, para. 8.
- ⁵⁸ *Ibid.*, para. 34.
- ⁵⁹ See CAT/C/POL/CO/5-6, para. 18.
- ⁶⁰ See CCPR/C/POL/CO/7, para. 34 (a).
- ⁶¹ See CAT/C/POL/CO/5-6, para. 9.
- ⁶² See CCPR/C/POL/CO/7, para. 30.
- ⁶³ See CAT/C/POL/CO/5-6, para. 8.
- ⁶⁴ See CCPR/C/POL/CO/7, para. 34 (b).
- ⁶⁵ See CAT/C/POL/CO/5-6, para. 8.
- ⁶⁶ See CRC/C/POL/CO/3-4, paras. 44 (c) and 45 (c). See also CAT/C/POL/CO/5-6, para. 13.
- ⁶⁷ See CCPR/C/POL/CO/7, para. 34.
- ⁶⁸ See CRC/C/POL/CO/3-4, para. 54 (b).
- ⁶⁹ For relevant recommendations, see A/HRC/21/14, paras. 90.100 and 90.102-90.105.
- ⁷⁰ See CRC/C/POL/CO/3-4, paras. 22 and 23.
- ⁷¹ See CCPR/C/POL/CO/7, para. 38 (b).
- ⁷² See UNESCO submission for the universal periodic review of Poland, paras. 60 and 68.
- ⁷³ See CCPR/C/POL/CO/7, paras. 37 and 38 (a).
- ⁷⁴ *Ibid.*, paras. 37 and 38 (c).
- ⁷⁵ See E/C.12/POL/CO/6, paras. 25-26.
- ⁷⁶ See www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3256747,102809,Poland,2015.
- ⁷⁷ For relevant recommendations, see A/HRC/21/14, paras. 90.82, 90.84 and 90.86.
- ⁷⁸ See CEDAW/C/POL/CO/7-8, para. 26.
- ⁷⁹ *Ibid.*, para. 4 (f). See also CAT/C/POL/CO/5-6, para. 24.
- ⁸⁰ See CRC/C/POL/CO/3-4, para. 50.
- ⁸¹ *Ibid.*, para. 50 (c) and 51 (b)-(c). See also CEDAW/C/POL/CO/7-8, para. 27 (c) and (e).
- ⁸² See CCPR/C/POL/CO/7, para. 28.
- ⁸³ For relevant recommendations, see A/HRC/21/14, paras. 90.31, 90.83 and 90.99.
- ⁸⁴ See CCPR/C/POL/CO/7, paras. 39-40.
- ⁸⁵ See CRC/C/POL/CO/3-4, para. 32 (e)-(f).
- ⁸⁶ *Ibid.*, paras. 33 (a) and (c).
- ⁸⁷ For relevant recommendations, see A/HRC/21/14, paras. 90.44 and 90.114-90.115.
- ⁸⁸ See E/C.12/POL/CO/6, para. 22.
- ⁸⁹ See CEDAW/C/POL/CO/7-8, para. 15 (a).
- ⁹⁰ *Ibid.*, para. 33 (d).
- ⁹¹ See E/C.12/POL/CO/6, para. 19.
- ⁹² For relevant recommendations, see A/HRC/21/14, paras. 90.29, 90.59, 90.113 and 90.115.
- ⁹³ See E/C.12/POL/CO/6, para. 28.
- ⁹⁴ For relevant recommendations, see A/HRC/21/14, paras. 90.59 and 90.113-90.115.
- ⁹⁵ See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19870&LangID=E.
- ⁹⁶ See E/C.12/POL/CO/6, para. 35.

- ⁹⁷ Ibid., para. 40 (a).
- ⁹⁸ See CERD/C/POL/CO/20-21, para. 15.
- ⁹⁹ For relevant recommendations, see A/HRC/21/14, paras. 90.39, 90.106-90.110, 90.114 and 90.119.
- ¹⁰⁰ See E/C.12/POL/CO/6, para. 44.
- ¹⁰¹ Ibid., para. 52.
- ¹⁰² See CAT/C/POL/CO/5-6, para. 23, and CCPR/C/POL/CO/7, para. 23.
- ¹⁰³ See CEDAW/C/POL/CO/7-8, paras. 37 (a)-(b).
- ¹⁰⁴ See CRC/C/POL/CO/3-4, para. 39 (b)-(c).
- ¹⁰⁵ Ibid., para. 39 (a)-(b).
- ¹⁰⁶ See CEDAW/C/POL/CO/7-8, paras. 31 (c) and 37 (d)-(e), and E/C.12/POL/CO/6, para. 49.
- ¹⁰⁷ For relevant recommendations, see A/HRC/21/14, paras. 90.39, 90.111-90.112, 90.115-90.116 and 90.119.
- ¹⁰⁸ See CRC/C/POL/CO/3-4, para. 42 (a).
- ¹⁰⁹ See E/C.12/POL/CO/6, para. 56.
- ¹¹⁰ See CEDAW/C/POL/CO/7-8, para. 30. See also CEDAW/C/POL/CO/7-8, para. 32.
- ¹¹¹ See CRC/C/POL/CO/3-4, para. 42 (d).
- ¹¹² See UNHCR submission, p. 4, and CERD/C/POL/CO/20-21, para. 15.
- ¹¹³ See CRC/C/POL/CO/3-4, para. 42 (c).
- ¹¹⁴ For relevant recommendations, see A/HRC/21/14, paras. 90.43 and 90.78-90.81.
- ¹¹⁵ See CEDAW/C/POL/CO/7-8, para. 11.
- ¹¹⁶ Ibid., para. 12.
- ¹¹⁷ Ibid., para. 14.
- ¹¹⁸ Ibid., para. 15 (b).
- ¹¹⁹ Ibid., para. 22.
- ¹²⁰ See CRC/C/POL/CO/3-4, para. 17 (b), E/C.12/POL/CO/6, para. 14, and CCPR/C/POL/CO/7, para. 22 (c).
- ¹²¹ See CEDAW/C/POL/CO/7-8, para. 25 (b).
- ¹²² Ibid., para. 25 (c).
- ¹²³ Ibid., para. 25 (e).
- ¹²⁴ See CAT/C/POL/CO/5-6, para. 22, CCPR/C/POL/CP/7, para. 20, and E/C.12/POL/CO/6, para. 31.
- ¹²⁵ See CEDAW/C/POL/CO/7-8, para. 33 (a) and (c).
- ¹²⁶ See E/C.12/POL/CO/6, para. 24, and CCPR/C/POL/CO/7, para. 22 (b).
- ¹²⁷ See CEDAW/C/POL/CO/7-8, para. 29 (a)-(b).
- ¹²⁸ See CCPR/C/POL/CO/7, para. 22 (a), and E/C.12/POL/CO/6, para. 15.
- ¹²⁹ See CEDAW/C/POL/CO/7-8, para. 39.
- ¹³⁰ For relevant recommendations, see A/HRC/21/14, paras. 90.41 and 90.83-90.86.
- ¹³¹ See CRC/C/POL/CO/3-4, para. 24.
- ¹³² Ibid., paras. 24 (a) and 25 (a)-(b) and (f).
- ¹³³ Ibid., para. 52.
- ¹³⁴ Ibid., paras. 28-29.
- ¹³⁵ Ibid., paras. 26 and 27 (d)-(e).
- ¹³⁶ Ibid., para. 56 (a).
- ¹³⁷ Ibid., para. 48.
- ¹³⁸ Ibid., para. 40 (a), and www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19873&LangID=E. See also www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19870&LangID=E.
- ¹³⁹ See CRC/C/POL/CO/3-4, paras. 40 (a) and (c) and 41 (c).
- ¹⁴⁰ Ibid., para. 61.
- ¹⁴¹ For the relevant recommendation, see A/HRC/21/14, para. 90.18.
- ¹⁴² See CCPR/C/POL/CO/7, para. 41.
- ¹⁴³ See CRC/C/POL/CO/3-4, paras. 34 (b) and 35 (b).
- ¹⁴⁴ Ibid., para. 36 (f).
- ¹⁴⁵ Ibid., para. 35 (c)-(d).
- ¹⁴⁶ For relevant recommendations, see A/HRC/21/14, paras. 90.114 and 90.117.
- ¹⁴⁷ See E/C.12/POL/CO/6, para. 17.
- ¹⁴⁸ See CRC/C/POL/CO/3-4, para. 46 (b). See also CERD/C/POL/CO/20-21, para. 13.

- ¹⁴⁹ See E/C.12/POL/CO/6, para. 37.
- ¹⁵⁰ See CRC/C/POL/CO/3-4, para. 37 (g).
- ¹⁵¹ *Ibid.*, para. 42 (b). See also CERD/C/POL/CO/20-21, para. 13.
- ¹⁵² See E/C.12/POL/CO/6, para. 55.
- ¹⁵³ See CEDAW/C/POL/CO/7-8, para. 31 (c). See also CERD/C/POL/CO/20-21, para. 13.
- ¹⁵⁴ See UNESCO submission, paras. 65 and 66.3.
- ¹⁵⁵ See E/C.12/POL/CO/6, para. 59.
- ¹⁵⁶ For relevant recommendations, see A/HRC/21/14, paras. 90.36, 90.39, 90.51, 90.119, 90.121 and 90.118.
- ¹⁵⁷ See UNHCR submission, p. 4, CAT/C/POL/CO/5-6, para. 13, CRC/C/POL/CO/3-4, para. 44 (a) and CERD/C/POL/CO/20-21, para. 15.
- ¹⁵⁸ See CAT/C/POL/CO/5-6, para. 12.
- ¹⁵⁹ See CCPR/C/POL/CO/7, para. 32.
- ¹⁶⁰ UNHCR submission, p. 4.
- ¹⁶¹ *Ibid.*, p. 4.
- ¹⁶² *Ibid.*, pp. 6-7.
- ¹⁶³ See CRC/C/POL/CO/3-4, para. 44 (d).
- ¹⁶⁴ See CERD/C/POL/CO/20-21, para. 15.
- ¹⁶⁵ For relevant recommendations, see A/HRC/21/14, paras. 90.98 and 90.120.
- ¹⁶⁶ UNHCR submission, p. 6.
- ¹⁶⁷ *Ibid.*, p. 6.
- ¹⁶⁸ See CRC/C/POL/CO/3-4, paras. 18 and 19 (a)-(b).





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Summary of other stakeholders' submissions on Poland^{*}**Report of the Office of the United Nations High Commissioner for Human Rights****I. Background**

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a summary of 18 stakeholders' submissions¹ to the universal periodic review, presented in a summarized manner owing to word-limit constraints.

II. Information provided by stakeholders**A. Scope of international obligations² and cooperation with international human rights mechanisms and bodies³**

2. Four Freedoms Forum (FFF) recommended that Poland provide a roadmap to ensure the ratification of all UN human rights treaties.⁴

3. Amnesty International (AI) recommended that Poland ratify ICPPED.⁵ Association for Legal Intervention (Stowarzyszenie Interwencji Prawnej) (SIP) recommended that Poland ratify ICERD.⁶

4. SIP recommended that Poland harmonize national legislation with the provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence.⁷

^{*} The present document was not edited before being sent to United Nations translation services.



5. Oceania Human Rights Hawaii (OHR) recommended that Poland report on its implementation of the Sustainable Development Goals when reporting for the UPR 3rd cycle, linking them to international human rights.⁸

B. National human rights framework⁹

6. Joint Submission 5 (JS5), Polish Council of Youth Organizations (PROM) and AI expressed concern about the significant reduction of the budget for the Office of the Human Rights Commissioner (Office of the Commissioner).¹⁰ PROM indicated that the budget cut posed a serious risk of a number of adverse consequences and was against recommendations 90.32, 90.34 and 90.35.¹¹ JS5 and Joint Submission 6 (JS6) highlighted that the main argument for cutting its budget was the fact that it carried out anti-discrimination tasks, including gender equality and LGBT rights, and that the Commissioner for Human Rights had regularly been attacked by right-wing parties, including the ruling party.¹² The Council of Europe Commissioner for Human Rights (CoE-Commissioner) strongly urged Poland to ensure that the Office of the Commissioner enjoy full independence through adequate resources.¹³

7. JS5 and AI noted the abolition in 2016 of the Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance, established in 2013.¹⁴ JS5 was concerned that this decision had been taken in the period when racist and xenophobic acts increased owing to the migration crisis.¹⁵

8. JS5 continued that the Government Plenipotentiary for Equal Treatment, established under the Equal Treatment Act, and operating within the Chancellery of the Prime Minister, was responsible for realizing the Government's equality policy on different grounds of discrimination. The Act, however, did not provide for Plenipotentiary's resources and separate budget. Moreover, it failed to define the relation between the Plenipotentiary and ministers as well as to create a structure for cooperation between the departments.¹⁶

9. The Good Group (GG) recommended that Poland create a National Action Plan for Human Rights Education in partnership with students, teachers, college and university faculties and administrators prior to the midterm review for UPR.¹⁷

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Cross cutting issues

Equality and non-discrimination¹⁸

10. Joint Submission (JS4) indicated that Poland had not implemented accepted UPR recommendations to strengthen legal and other measures to address bias-motivated crimes¹⁹ and those relating to prompt and effective prosecution of racist and xenophobic hate crimes,²⁰ while partially implemented 90.50 on decreasing anti-Semitism.²¹

11. AI, Fundacja Trans-Fuzia (TF), JS5, and the European Commission against Racism and Intolerance of the Council of Europe (CoE-ECRI) expressed concern that LGBTI persons and persons with disabilities had not been awarded greater protection in Poland's anti-discrimination law.²²

12. JS5 indicated that the Equal Treatment Act lacked holistic approach to the issue of discrimination and did not treat all marginalised groups equally. This resulted in hierarchy of protection, where the least protected grounds were sexual orientation, age, disability and religion.²³ Prohibition of discrimination based on sexual orientation had been implemented

only in relation to the Labour Code, and to a limited extent, to the Equal Treatment Act. However, provisions included in the Act covered only the area of employment, excluding other areas, such as health care, education and access to goods and services. The Polish authorities still had not implemented any provisions prohibiting discrimination based on gender identity.²⁴

13. AI stated that the Criminal Code specifically provided for the investigation and prosecution of hate crimes motivated by race, ethnicity, nationality, religion and political affiliation. However, it did not establish that age, disability, gender, gender identity and expression, sexual orientation, and social or economic status were grounds to investigate and prosecute hate crimes.²⁵ JS4, JS5, JS6, TF and CoE-ECRI raised similar concerns.²⁶

14. JS4 indicated that, while the Criminal Code included specific reference to aggravating factors leading to the imposition of higher penalties for certain criminal offences, they did not include bias motivation as such.²⁷

15. JS4 continued that the Government had not attempted to prepare a draft amendment aimed at expanding the catalogue of protected categories in the hate crime and hate speech provisions.²⁸ According to JS4, the new Minister of Justice declared that he saw no need to introduce any changes in this area to the Criminal Code. JS4 considered this a regressive action in breach of the accepted UPR recommendations.²⁹

16. CoE-ECRI expressed concern about homophobic statements in political discourse, hate speech on the Internet against the Muslim community, and the existence of nationalist groups whose numbers were constantly increasing, and racism at sports events.³⁰

17. According to JS4, reasons of under-reporting of hate crime included low confidence in police, lack of knowledge of what constituted hate crime and reporting mechanisms, language and cultural barriers, as well as fear of homophobic reaction from the police.³¹

18. Concerning the collection of data on and monitoring of hate crime and hate speech, JS4 stated that the system was fairly capable of capturing recorded incidents motivated by racism and xenophobia (bias motivations included in the Criminal Code), however, when it came to biases which were not mentioned in the Criminal Code, primarily sexual orientation, gender identity and disability, the numbers captured were still negligible.³²

19. JS4 noted that there were no public funds aimed at providing legal and psychological support for victims of hate crimes. The Victim Support Fund, managed by the Ministry of Justice, did not address specific needs of victims of hate crimes.³³

20. Concerning recommendation 90.61 on the finalization of the action plan to combat acts of racism and xenophobia, JS4 indicated that it had been implemented partially until 2016, when the Prime Minister dissolved the Council, which marked the start of a regressive action in hate crime policy and practice.³⁴

21. Concerning recommendation 90.67 on guaranteeing the full enjoyment of the rights of the LGBT community, TF indicated that its implementation was a subject of debate, although it had been said to be "in the course of implementation".³⁵

22. JS4 noted that Poland had not implemented recommendations 90.66, 90.68 and 90.94 on hate crimes against LGBT persons.³⁶

23. On recommendations 90.68 and 90.71, JS6 stated that LGBTI persons did not receive the full protection of the State for their enjoyment of freedom of association.³⁷ A refusal to officially acknowledge attacks against them left LGBTI persons and other minority groups without adequate protection.³⁸ AI noted that, in February and March 2016, the offices of two major LGBTI organizations in Warsaw, Campaign against Homophobia and Lambda, were attacked.³⁹

24. As for recommendation 90.70, TF stressed that transgender persons had still not been included in the anti-discrimination law.⁴⁰ For recommendation 90.71, TF welcomed the introduction of partial funding of hormone in 2015 by the Ministry of Health. However, TF regretted a 2016 draft policy on diplomas and certificates of higher education, which required transgender people, who had received legal gender recognition, to return the original diploma and all of its official copies, in order to have a new diploma and certificate issued.⁴¹

25. Concerning recommendation 90.94, TF noted an elevated interest of law enforcement in training on transgender issues between 2011 and 2014, however, according to TF, such an interest decreased significantly in late 2015 and throughout 2016.⁴²

26. Campaign against Homophobia (KPH) and JS5 stated that there were no policies and standards ensuring equal treatment and safety of LGBTI persons in schools. Many schools denied the existence of LGBTI students, who experienced homophobic behavior, not only from other students but also from teachers, educators, and especially priests and nuns conducting religion lessons.⁴³ CoE-ECRI recommended inclusion in the curricula of all branches of education a programme for raising awareness about, and combating, discrimination towards LGBT persons.⁴⁴

Human rights and counter-terrorism⁴⁵

27. AI stated that a new Counterterrorism Law, enacted in June 2016, consolidated extensive powers, including enhanced surveillance capacity, in the hands of the Internal Security Agency (ISA), with no independent oversight mechanism to prevent abuse and ensure accountability. Terrorism-related crimes and incidents were broadly and imprecisely defined in the Law and the accompanying Regulation.⁴⁶ JS6 expressed similar concern⁴⁷ and stated that, under the Law, the head of ISA was allowed to block any website without notification or justification, and without first obtaining a court order to do so.⁴⁸ Reporters Without Borders International (RSF-RWB) noted that, under the Law, journalists could be put under surveillance without their knowledge. This seriously threatened their ability to protect the confidentiality of their sources.⁴⁹

28. According to AI, foreigners were particular targets of this new Law, which allowed for their covert surveillance, including through wire-tapping, monitoring of electronic communications, telecommunication networks and devices. These measures could be employed if there was a "fear" that the person might be involved in terrorism-related activities. AI expressed concern that singling out foreign nationals in this manner was discriminatory and could lead to racial and ethnic profiling.⁵⁰

29. JS5 stated that the Law introduced a catalogue of terroristic behaviors that had to be monitored by the secret service, which included information about Islamic universities/schools in Poland, visits of Islamic clerics in prisons and grant-making to Islamic organizations or communities abroad. According to JS5, some of the Law's provisions were based only on anti-Islamic and anti-Muslim prejudice.⁵¹ JS6 noted that the regulations accompanying the Law included multiple references to "Muslim" or "Islamic" groups or institutions whose actions could *prima facie* raise the prospect of someone associated with those groups being detained for 14 days without having to appear before a judge.⁵²

30. In 2015, in *Al Nashiri v. Poland and Husayn (Abu Zubaydah) v. Poland*, the European Court of Human Rights (ECtHR) found the complicity of Poland in enabling a third country in 2002 to secretly detain, torture and ill-treat the applicants in a detention facility in Stare Kiejkuty and transfer them from its territory in 2003, despite the existence of a real risk that they would be subjected to human rights violations. As regards the

domestic investigation, ECtHR remained concerned that concrete results had still not been achieved and urged Poland to ensure its completion without delay.⁵³

2. Civil and Political Rights

*Right to life, liberty and security of the person*⁵⁴

31. ADF International recommended that Poland continue its efforts to protect the right to life of the unborn.⁵⁵

32. After its visit to Poland in June 2013, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CoE-CPT) called upon Poland to pursue rigorously its efforts to combat ill-treatment by police officers.⁵⁶

33. CoE-CPT called upon Poland to redouble its efforts to combat prison overcrowding by adopting policies designed to limit or modulate the number of persons sent to prison. It also called upon Poland to revise as soon as possible the norms fixed by legislation for living space per prisoner so that, in all penitentiary establishments, there would be at least 4 m² per inmate in multi-occupancy cells and at least 6 m² in single cells.⁵⁷

34. Joint Submission 1 (JS1) recommended that, in line with CAT, Poland establish an effective system for identification of vulnerable persons, including torture victims, to prevent their detention.⁵⁸

35. As regards the so-called "dangerous" ("N" status) prisoners, CoE-CPT welcomed the continued reduction in the number of such prisoners in the recent years. Nevertheless, it remained of the view that Poland should refine the procedure for allocating a prisoner to "N" status, with a view to ensuring that only those inmates who posed an on-going high risk, if accommodated in the mainstream of the prison population, are accorded "N" status. It was also concerned about the absence of any changes to the restrictive regime applied to "N" status prisoners. It called upon Poland to fundamentally review that regime and to develop individual plans aimed at providing appropriate mental and physical stimulation to such prisoners.⁵⁹

*Administration of justice, including impunity, and the rule of law*⁶⁰

36. According to AI, since the Law and Justice party came to power in October 2015, 148 new laws and legislative amendments had been enacted, some laying the legislative groundwork for potential human rights violations. In January 2016, the European Commission initiated a structured dialogue with Poland under the Rule of Law Framework. On 27 July 2016, the European Commission issued a recommendation, giving Poland three months to take steps to remedy the Constitutional Tribunal crisis.⁶¹

37. The European Union Agency for Fundamental Rights (EU-FRA) noted that it was the first time that the European Commission had applied the Rule of Law Framework, which aimed to address threats to the rule of law that were of a "systemic nature". According to EU-FRA, the First Vice-President of the European Commission had recommended that Poland consult the Council of Europe's European Commission through Democracy Law (Venice Commission) – before enacting the proposed changes to the Constitutional Tribunal Act. Poland requested a legal assessment from the Venice Commission on 23 December 2015, however, concluded the legislative process before receiving its Opinion.⁶²

38. AI stated that, since the Law and Justice party had come to power, three far-reaching amendments to the Constitutional Tribunal Act had been enacted, all of which the Constitutional Tribunal found wholly or partially unconstitutional in their judgements of 9 March and 11 August 2016.⁶³ Joint Submission 2 (JS2) indicated that the amendments to

the Constitutional Tribunal Act had introduced improper interference with the independent functioning of the Constitutional Tribunal, undermining the independence of the judiciary.⁶⁴

39. JS2 stated that the decision of Polish legislature and executive not to implement the Constitutional Tribunal's judgments of 3 and 9 December 2015, regarding the legitimate election of the three Constitutional Tribunal judges by the previous Parliament and the ineffective election of the two judges elected by the present Parliament, undermined the separation of powers doctrine and raised serious concerns in respect of the rule of law.⁶⁵ JS1 recommended that Poland swear into the office three judges legally appointed in October 2015; acknowledge all the judgments of the Constitutional Tribunal; and guarantee the respect for the Constitutional Tribunal's jurisprudence in adopting new legislation.⁶⁶

40. JS2 recommended that Poland undertake a review of the Constitutional Tribunal Act to ensure that it respects the independent functioning of the Constitutional Tribunal and enables it to act as an effective guardian of the Constitution and the rights and freedoms enshrined therein.⁶⁷ JS2 also recommended that Poland uphold the rule of law and ensure that current and future provisions of law respect the binding nature of Constitutional Tribunal judgments.⁶⁸ AI made similar recommendations.⁶⁹

41. In its Opinion adopted in March 2016, the Venice Commission recalled the essential character of checks and balances and stated that, as long as the situation of constitutional crisis related to the Constitutional Tribunal remained unsettled, and as long as the Constitutional Tribunal could not carry out its work in an efficient manner, not only was the rule of law in danger, but so was democracy and human rights. The Opinion urged Poland to publish the Tribunal's judgment, which had found the amendments unconstitutional.⁷⁰

42. CoE-Commissioner expressed concern at the paralysis of the Constitutional Tribunal, which prevented it from playing its crucial role in upholding the human rights of all Polish citizens. He called on Poland to urgently find a way out of the deadlock, following the Opinion of the Venice Commission.⁷¹

43. JS2 stated that proposed reform to the Constitutional Tribunal Act and to the law on the National Council of the Judiciary (NJC) compromise the principle of judicial security of tenure: the former, by, *inter alia*, shortening the tenure of the President of the Constitutional Tribunal to three years and terminating the tenure of the incumbent President and Vice-President of the Constitutional Tribunal; the latter by retroactively shortening the tenure of judges appointed to NJC.⁷² JS1 recommended that the President should appoint the 10 judges proposed by NJC.⁷³

44. AI noted that, under the Law on Prosecution of 28 January 2016, the functions of Prosecutor General and Minister of Justice had been merged. The person, who, as Prosecutor General, could decide on investigations undertaken by prosecutors and intervene in cases, was also a Government Minister, with administrative oversight of courts as Minister of Justice.⁷⁴ JS1 recommended that Poland reform the Prosecution Office in order to separate the function of Minister of Justice and Prosecutor General, which would ensure a greater independence of the prosecution authorities.⁷⁵

45. CoE-Commissioner stated that a number of recent amendments to the Code of Criminal Procedure and to the Law on Prosecution might jeopardise the protection of the right to a fair trial in criminal proceedings, the presumption of innocence and the right to defence. Furthermore, he particularly noted that provisions on the use of illegally obtained evidence were not in full conformity with applicable standards.⁷⁶

46. Concerning recommendation 90.93, JS2 welcomed the step taken by the Minister of Justice in 2012 to change the regulation on the right of access of lawyers to classified information, including documents of criminal cases, in order to ensure the right to a fair

trial. JS2 also noted that Poland had executed judgments of ECtHR on access of lawyers to information in lustration cases.⁷⁷

Fundamental freedoms and the right to participate in public and political life⁷⁸

47. JS6 expressed concern that, although Poland supported recommendations 90.100 and 90.101 on freedom of expression, it did not take effective measures to implement them.⁷⁹

48. JS1 also noted that, despite the previous UPR recommendations, defamation still remained criminalized in Article 212 of the Criminal Code and recommended its removal.⁸⁰ CoE-Commissioner also encouraged Poland to consider repealing all criminal provisions against defamation and dealing with it through strictly proportionate civil sanctions only.⁸¹

49. JS6 noted that the introduction and proposal of new media legislation – including the Act on the Council of National Media and the Act on Audiovisual Contribution – had substantially eroded the independence of the public broadcasters.⁸²

50. RSF-RWB noted a so-called “small law” (Law amending the Broadcasting Act) that granted the Government full power to appoint and dismiss state TV and radio executives.⁸³ According to JS6, the legislation removed the incumbent heads of public television and radio stations, Telewizja Polska (TVP) and Polskie Radio (PR), while the Government directly appointed new heads in their place. The new appointees quickly dismissed about 140 journalists, some of whom had worked for as long as 20 years for the public broadcaster.⁸⁴ RSF-RWB recommended that Poland repeal or amend the “small law” on media that allowed the treasury minister to appoint state broadcasting executives.⁸⁵

51. RSF-RWB also noted that public TV and radio, as well as the PAP news service, which were state-controlled commercial enterprises, had been transformed into so-called national cultural institutions overseen by the Council of National Media that the Government appointed in July 2016.⁸⁶

52. JS1 recommended that Poland adopt a broad and complex regulation concerning the public media, which would guarantee political independence of public broadcasters, and financial sustainability of the public media.⁸⁷

53. JS2 recommended that Poland ensure that human resources decisions affecting journalists, taken by public media management, are based solely on merit, without any political pressure and influence.⁸⁸

54. JS2 recommended that Poland ensure the functioning of free and independent public radio and television, without any political pressure and influence, based on an institutional architecture compatible with the Constitution and international human rights standards, including respect for the constitutional role of the independent National Council of Radio Broadcasting and Television (KRRiT).⁸⁹

55. JS6 noted that the Government was also exerting economic pressure on the private media critical of its record. There were several reports of large state and semi-state companies withdrawing advertising from private media publications as punitive means to exercise control of their editorial independence.⁹⁰

Prohibition of all forms of slavery⁹¹

56. The Group of Experts on Action against Trafficking in Human Beings of the Council of Europe (CoE-GRETA) considered that Poland should take further steps to identify persons and groups vulnerable to human trafficking and to focus on prevention among them through targeted social, economic and other initiatives.⁹²

57. EU-FRA noted that, for victims of labour exploitation, the conditions for accessing rights and justice were, at best, precarious in Poland.⁹³ CoE-GRETA called on Poland to strengthen action to combat human trafficking for the purpose of labour exploitation.⁹⁴

58. CoE-GRETA also called on Poland to ensure victims of trafficking can take full advantage of the right to be granted a residence permit. According to CoE-GRETA, further measures should be taken to facilitate access to compensation for victims of trafficking. It also recommended that Poland strengthen the effectiveness of investigations and prosecutions with a view to securing proportionate and dissuasive sanctions.⁹⁵

*Right to privacy and family life*⁹⁶

59. JS2 noted that the Act of 15 January 2016 (Police Act) lacked the requirement for an independent body to determine the conditions under which an individual's communications data could be captured and monitored.⁹⁷ The Act also did not protect against the surveillance or interception of privileged communications between a lawyer and his or her client.⁹⁸ AI raised similar concern.⁹⁹

60. In its Opinion adopted in June 2016, the Venice Commission stated that the procedural safeguards and material conditions set in the Police Act for implementing secret surveillance were still insufficient to prevent its excessive use and unjustified interference with the privacy of individuals. The Venice Commission recommended several amendments be adopted in order to improve the Act, for example, to strengthen the proportionality principle, to exclude surveillance of communication protected by lawyer-client privilege.¹⁰⁰

61. In reference to recommendations 90.69, 90.71, and 90.97, KPH indicated that the adoption of legislation enabling same-sex couples entering into civil union was still necessary. According to KPH, lack of recognition of same sex-couples led to discrimination of both same-sex couples and of trans persons in marriages, who needed to divorce in order to receive legal gender recognition.¹⁰¹ EU-FRA raised similar concern.¹⁰² According to JS5, Polish citizens who intended to get a civil partnership or marriage with a same-sex partner were often refused the civil status certificates, due to the fact that the Constitution defined marriage as a relationship of a man and a woman.¹⁰³

62. TF stated that a number of trans persons were delaying their legal gender recognition and medical transition in fear of losing parental rights, as the rights of transitioning parents had not been safeguarded by the State. Furthermore, according to TF, there were no existing alternatives to trans persons and their spouses, who wished to remain in a relationship, as Poland did not recognize neither same sex marriage, nor civil partnerships of any kind, hence couples were effectively forced to divorce as part of legal gender recognition.¹⁰⁴

63. CoE-ECRI recommended legislative changes to guarantee comprehensive protection on grounds of sexual orientation and gender identity, ensuring that the necessary administrative documents can be issued to persons wishing to enter into a same-sex marriage or partnership in another country, and facilitate changes of gender and name.¹⁰⁵

3 Economic, Social and Cultural Rights

*Right to social security*¹⁰⁶

64. In 2015, the European Committee of Social Rights of the Council of Europe (CoE-ECSR) indicated that child benefit for children under the age of five was inadequate, as it was 18 euros, amounting to only 4 per cent of the monthly median equivalised income of 445 euros in 2014 and did not constitute an adequate income supplement.¹⁰⁷

*Right to an adequate standard of living*¹⁰⁸

65. CoE-ECSR stressed that the right to adequate housing required legal protection through adequate procedural safeguards. Occupiers and tenants must have access to affordable and impartial judicial and non-judicial remedies. Pointing out to the lack of such information, it considered that families in Poland did not have access to adequate housing.¹⁰⁹

*Right to health*¹¹⁰

66. Joint Submission 3 (JS3) stated that Poland had not implemented recommendations 90.96, 90.106, 90.107, 90.108 and 90.109. There were no reproductive health centres, and contraception was not refunded from the state budget.¹¹¹ Women without sufficient financial means sought help from unskilled providers who performed abortions in unsafe conditions. This was a serious danger to women's health and life. According to JS3, procedures for legal abortions were incomplete, inconsistent, and arbitrary. They were neither written down nor published.¹¹²

67. JS3 continued that doctors did not register their refusal to perform an abortion on conscientious objection grounds, and therefore, there was no record in the medical files, although it was their legal obligation. There were very few disciplinary proceedings initiated against these doctors.¹¹³ JS5 stated that there were no measures undertaken to create the system around conscientious objection in which it would be guaranteed that women receive abortion services on time. There were no measures to protect a woman who was denied abortion on this ground and to guarantee that she would receive the service elsewhere.¹¹⁴

68. EU-FRA noted that those engaged in education and healthcare had very little knowledge of LGBT issues.¹¹⁵ LGBT identifies were either overlooked in medical school or presented as a mental illness or sexual behaviour disorder.¹¹⁶ CoE-ECRI raised similar concern.¹¹⁷ KPH also noted that LGBTI patients faced barriers in access to health services, partially due to the lack of curricula regarding LGBTI issues in medical universities. A large proportion of medical practitioners saw homosexuality as a pathological problem, which required psychiatric treatment.¹¹⁸

4 Rights of specific persons or groups*Women*¹¹⁹

69. CoE-Commissioner noted as problematic the persistence of gender-bias among medical staff, police, prosecutors and judges who dealt with women victims of domestic violence and gender-based violence. He was also concerned about public-run shelters not adapted to the specific needs of women victims of domestic violence, a lack of sustainable public funding for NGO-run shelters for women victims, the continuing gender gap in employment and the prevalence of other forms of discrimination affecting women and the many obstacles to women's access to safe and legal abortion and contraception.¹²⁰

70. CoE-ECSR noted that the regulation of night work did not adequately protect women carrying out night work in industrial employment.¹²¹

*Children*¹²²

71. CoE-GERTA urged Poland to pay increased attention to prevention and protection measures addressing the particular vulnerability of children to trafficking and adopt nationwide procedures for the identification of child victims of trafficking.¹²³

*Persons with disabilities*¹²⁴

72. JS5 noted that persons with intellectual disabilities or mental health problems might have restricted access to political life, as an intellectual disability or mental illness might be a basis for legal incapacitation, which deprived incapacitated persons of possibility to participate in political life.¹²⁵

73. JS5 indicated that most of the Polish prisons were not architecturally and physically adapted to the needs of persons with disabilities, which might lead to the inhuman and degrading treatment of prisoners with disabilities. They were kept in conditions preventing them from functioning independently. They were not able to intimately use the toilets. There were no facilities for the blind or visually impaired. Furthermore, prison staff did not use the Polish sign language.¹²⁶

*Minorities*¹²⁷

74. The Committee of Ministers of the Council of Europe (CoE-CM) noted persistent discrimination and difficulties faced by Roma in different sectors, in particular, in employment and education. A disproportionately high number of Roma children received certificates attesting to their disability and were placed in special schools, which indicated the inadequacy of the pre-school education opportunities for Roma children, who entered primary school with little or no knowledge of the Polish language, and which pointed to the deficiencies in the testing methods.¹²⁸ CoE-CM called on Poland to ensure that Roma children are fully integrated into mainstream education, review the enrolment policies for special schools, ensure access to pre-school facilities for all Roma children and guarantee that the curriculum in such kindergartens corresponds to the diverse needs and multilingual composition of the groups concerned.¹²⁹

75. CoE-CM also indicated that unemployment figures demonstrated that the various initiatives and schemes had not yielded tangible results and that a significant proportion of Roma remained excluded from the labour market.¹³⁰ CoE-CM also called on Poland to take measures to improve the access of Roma to the labour market; develop, in consultation with those concerned, genuine and realistic programmes to lower unemployment among Roma.¹³¹

76. Concerning regional or minority languages, as a matter of priority, CoE-CM recommended, among others: strengthening efforts to promote awareness and tolerance vis-à-vis regional or minority languages and the cultures they represented; making available education in Belarusian, German, Kashub, Lemko and Ukrainian as a medium of instruction at pre-school, primary and secondary levels; providing updated textbooks and other teaching materials for regional or minority language education and further training of a sufficient number of teachers who were able to teach subjects in these languages; and taking measures to strengthen the offer of broadcasting in all regional or minority languages.¹³²

*Migrants, refugees and asylum seekers*¹³³

77. JS1 and SIP noted the detention of minors in closed facilities in relation to their migration status, despite recommendations issued and noted by Poland (90.121). Polish law still allowed for the detention of families with minors for the purposes of both return and asylum proceedings. Unaccompanied minors, when older than 15 years, could be also detained for the purposes of expulsion.¹³⁴

78. SIP also stated that there was no uniform approach across the Border Police units as to the "detention as a last resort" requirement. Nor was there a mechanism in place allowing for the identification of the vulnerable persons, e.g. victims of torture at the border crossing points. The lack of proper identification mechanism enshrined in the law led to

survivors of torture still being detained in detention centers without proper psychological or psychiatric assistance or access to the free-of-charge legal assistance.¹³⁵

79. SIP indicated that, following the previous UPR recommendations (90.27-28), Poland had ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence. However, according to SIP, no steps had been taken to strengthen the protection of migrant women from gender-based violence despite explicit guidelines enshrined in the Convention.¹³⁶

80. SIP continued that migrant workers were facing the highest risk of labour exploitation. The most common violations were: non-payment of salaries; failure to observe health and safety provisions; reduction of salaries; and failure to offer a written contract.¹³⁷

81. SIP further stated that, according to the law on foreigners of 2013, migrant workers were obliged to return to their country of origin, should they even slightly infringe the conditions of their previously declared employment. Furthermore, the Labour Inspection cooperated closely with the border police in detecting any violations of rules governing employment of foreigners as well as detecting undocumented migrant workers. Therefore, migrants had no incentive to report labour exploitation to the relevant bodies.¹³⁸

82. SIP also indicated that, despite numerous previous UPR recommendations, Poland had not improved the situation of irregular migrants as regards healthcare. The most urgent issue was the lack of availability of healthcare for undocumented minors and pregnant women.¹³⁹

83. JSI and SIP noted that asylum seekers trying to cross the eastern border crossing points were repeatedly refused to do so.¹⁴⁰

84. SIP noted that, due to the lack of social housing, many refugees became homeless. SIP recommended increased attention to the integration process for refugees, particularly in the area of social housing, vocational training and job placement.¹⁴¹

Notes

¹ The stakeholders listed below have contributed information for this summary, the full texts of all original submissions are available at: www.obchr.org.

Individual submissions:

ADF International	ADF International, Geneva (Switzerland);
AI	Amnesty International, London (United Kingdom of Great Britain and Northern Ireland ⁶);
FFF	Four Freedoms Forum, Kaneohe (United States of America);
GG	The Good Group, Honolulu (United States of America);
KPH	Campaign Against Homophobia (Kampania Przeciw Homofobii), Warsaw (Poland);
OHHR	Oceania Human Rights Hawaii, Lailua (United States of America);
PROM	Polish Council of Youth Organizations (Polska Rada Organizacji Młodzieżowych), Warsaw (Poland);
RSF-RWB	Reporters Without Borders International, Paris (France);
SIP	Association for Legal Intervention (Stowarzyszenie Interwencji Prawnej), Warsaw (Poland);
TF	Fundacja Trans-Fuzja, Warsaw (Poland);

Joint submissions:

JS1	Joint submission 1 submitted by: Helsinki Foundation for Human Rights (Helsińska Fundacja Praw Człowieka), Warsaw (Poland); and The Zbigniew Horda Association ("PHA"), Warsaw (Poland);
JS2	Joint submission 2 submitted by: International Bar Association's Human Rights Institute, London (United Kingdom of Great Britain and Northern Ireland); The Polish Bar of Legal Advisers, Warsaw (Poland); and The Polish Bar Council, Warsaw (Poland);
JS3	Joint submission 3 submitted by: Federation for Women and Family Planning Poland, Warsaw (Poland) and The Sexual Rights Initiative consisting of Akakata, Action Canada for Sexual Health and Rights, Creating Resources for Empowerment and Action CREA, the Federation for Women and Family Planning, and the Coalition of African Lesbians and Egyptian Initiative for Personal Rights;
JS4	Joint submission 4 submitted by: Lambda Warsaw (Stowarzyszenie Lambda Warszawa), Warsaw (Poland); Association for Legal Intervention (Stowarzyszenie Interwencji Prawnej), Warsaw (Poland); and The Diversity Workshop (Stowarzyszenie Pracowni Różnorodności), Warsaw (Poland);
JS5	Joint submission 5 submitted by: The Polish Coalition for Equal Opportunities consisting of Polish Society of Anti-Discrimination Law, Warsaw (Poland); Antaris Fundacja Pomocy Prawnej; Centrum Wsparcia Imigrantów i Imigrantek; Federacja na rzecz Kobiet i Planowania Rodziny; FORUM St+; Forum Żydów Polskich; Fundacja "PHAN BOE"; Fundacja "Pierś Przewodnik"; Fundacja Autonomia; Fundacja Bez Dyskryminacji; Fundacja Centrum Praw Kobiet; Fundacja eKropka; Fundacja Europejskiej Centrum Równości; Fundacja Feminoteka; Fundacja Generacja; Fundacja im. Izabeli Jarugi - Nowackiej; Fundacja Inicjatyw Społecznych "Się Zrobi!"; Fundacja Just Better; Fundacja Klinika Rządzenia; Fundacja Kultury Bez Granic; Fundacja MaMa; Fundacja My Pacjenci; Fundacja na Rzecz Różnorodności Polistrefa; Fundacja na Rzecz Równości i Emancypacji STER; Fundacja Nacza Przestrzeń; Fundacja Przetrząśnij Kobiet; Fundacja Równości; Fundacja Trans-Fuzja; Fundacja TUS; Fundacja Wiedza Lokalna; Fundacja Wolontariat Równości; Fundacja Rodzić po Ludzku; Fundacja Strefa Kobiet; Fundacji Aktywności Lokalnej; Helsińska Fundacja Praw Człowieka; Instytut Podkarpacki; Kampania Przeciw Homofobii; Koalicja Karat; Lambda Bydgoszcz; Lambda Warszawa; Polski Instytut Praw Człowieka i Biznesu; Polskie Forum Osób Niepełnosprawnych; Stowarzyszenia Romów w Polsce; Stowarzyszenie "W stronę Dziewcząt"; Stowarzyszenie Aktywne Kobiety; Stowarzyszenie Dni Równości i Tolerancji; Stowarzyszenie Projekt Polska; Stowarzyszenie Homo Faber; Stowarzyszenie Inicjatyw Niezależnych

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MIKUSZEWI, Stowarzyszenie Inicjatyw Kobiecych, Stowarzyszenie Interwencji Prawnej, Stowarzyszenie Kobiet Komuła, Stowarzyszenie Młodzi Nie Wykluczeni, Stowarzyszenie na Rzecz Kobiet "Victoria", Stowarzyszenie Na Rzecz Lesbijek, Gejów, Osób Biseksualnych, Osób Transpłciowych oraz Osób Queer "Pracownia Różnorodności", Stowarzyszenie na Rzecz Rozwoju Społeczności Obywatelskiego PRO HUMANUM, Stowarzyszenie Naukowe Psychologia i Seksuologia LGHT, Stowarzyszenie Nigdy Więcej, Stowarzyszenie Otwarte Forum, Stowarzyszenie przeciw Antysemityzmowi i Ksenofobii „Otwarta Rzeczpospolita”, Towarzystwo Edukacji Antydyskryminacyjnej, Towarzystwo Przyjaciół Szalonego Wierkiewicza, Związek Nauczycielstwa Polskiego, Żydowski Stowarzyszenie Człekt.

Joint submission 6 submitted by: CIVICUS: World Alliance for Citizen Participation, Geneva (Switzerland); and Committee for Defence of Democracy (KOD), Warsaw (Poland).

Regional intergovernmental organisations:

CoE:

- The Council of Europe, Strasbourg (France);
- CoE-Commissioner: Report by Nils Mazowiecki, Commissioner for Human rights of the Council of Europe, Following his visit to Poland from 9 to 12 February 2016;
- CoE-CPT: European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Report on the visit to Poland, 5-17 June 2013;
- CoE-ECRI: European Commission against Racism and Intolerance, Report on Poland (fifth monitoring cycle) adopted on 20 March 2015 published on 9 June 2015;
- CoE-ESCR: European Committee of Social Rights 2015 conclusions regarding thematic group 4 "Children, families, migrants", articles and 16 of the European Social Charter;
- CoE-GRETA: Group of Experts on Action against Trafficking in Human Beings, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Poland, First evaluation round, 6 March 2013;
- CoE-CM: Committee of Ministers, Resolution CM/Res CMN (2015) European Union Agency for Fundamental Rights, Vienna (Austria).

EU FRA

¹ The following abbreviations are used in UPR documents:

CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance
LGHT	lesbian, gay, bisexual and transgender
LGHTI	lesbian, gay, bisexual, transgender and intersex.

² For relevant recommendations, see A/HRC/21/14, paras. 90.1, 90.3, 90.4, 90.5, 90.6, 90.7, 90.8, 90.9, 90.10, 90.11, 90.12, 90.13, 90.15, 90.19, 90.20, 90.22, 90.23, 90.24, 90.25, 90.27, and 90.28.

³ FFF, p. 2.

⁴ AI, p. 8.

⁵ SIP, p. 3.

⁶ SIP, p. 2.

⁷ CGR, p. 2.

⁸ For relevant recommendations, see A/HRC/21/14, paras. 90.32, 90.33, 90.34, 90.35, and 90.36.

⁹ J55, p. 3 / AI, p. 1 / FROM, pp. 1-2.

¹⁰ FROM, pp. 1-2. / See A/HRC/21/14, paras. 90.32 (Morocco), 90.34 (Spain) and 90.35 (Australia).

¹¹ J55, p. 3 / J56, p. 6.

¹² CoE-Commissioner, para. 31. See also CoE, p. 4.

¹³ AI, p. 1 / J55, p. 5.

¹⁴ J55, p. 5.

¹⁵ J55, p. 3.

- ⁶⁷ GR, p. 2.
- ⁶⁸ For relevant recommendations, see A/HRC/21/14, paras. 90.60, 90.65, 90.66, 90.67, 90.68, 90.69, 90.70, 90.72, 90.73, 90.74, 90.75, 90.76, 90.77, 90.80, 90.81, 90.82, 90.84, 90.85, 90.86, 90.87, 90.88, 90.89, 90.90, 90.91, and 90.94.
- ⁶⁹ JS4, para. 6.
- ⁷⁰ JS4, para. 17.
- ⁷¹ JS4, para. 28. / See A/HRC/21/14, para. 90.50 (United States of America).
- ⁷² AI, p. 2. / TF, para. 12. / CoI, p. 7. / JS5, p. 4.
- ⁷³ JS5, p. 4.
- ⁷⁴ JS5, p. 5.
- ⁷⁵ AI, p. 6.
- ⁷⁶ JS4, para. 4. / JS5, p. 6. / JS6, paras. 3.10 – 11. / TF, para. 12. / CoI-ECRI, paras. 3-14. See also CoI, p. 6.
- ⁷⁷ JS4, para. 26.
- ⁷⁸ JS4, para. 8.
- ⁷⁹ JS4, para. 12.
- ⁸⁰ CoI-ECRI, paras. 27-30. See also CoI, p. 6.
- ⁸¹ JS4, para. 30.
- ⁸² JS4, para. 38.
- ⁸³ JS4, paras. 42 and 44.
- ⁸⁴ JS4, para. 49. / See A/HRC/21/14, para. 90.61 (Indonesia).
- ⁸⁵ TF, para. 15. / See A/HRC/21/14, para. 90.67 (Spain).
- ⁸⁶ JS4, paras. 6 and 28. / See A/HRC/21/14, paras. 90.66 (Slovenia), 90.68 (United Kingdom of Great Britain and Northern Ireland) and 90.94 (United States of America).
- ⁸⁷ JS6, para. 2.2. / See A/HRC/21/14, paras. 68 (United Kingdom of Great Britain and Northern Ireland) and 90.71 (Brazil).
- ⁸⁸ JS6, para. 2.3.
- ⁸⁹ AI, p. 6.
- ⁹⁰ TF, para. 17. / See A/HRC/21/14, para. 90.70 (Austria).
- ⁹¹ TF, para. 18. / See A/HRC/21/14, para. 90.71 (Brazil).
- ⁹² TF, para. 18. / See A/HRC/21/14, para. 90.94 (United States of America).
- ⁹³ KPII, p. 4. / JS5, p. 7.
- ⁹⁴ CoI-ECRI, recommendation, para. 17. See also CoI, p. 7.
- ⁹⁵ For relevant recommendations, see A/HRC/21/14, paras. 90.122, 90.123, and 90.124.
- ⁹⁶ AI, p. 4.
- ⁹⁷ JS6, para. 3.8.
- ⁹⁸ JS6, para. 3.7.
- ⁹⁹ RSF-RWB, p. 2.
- ¹⁰⁰ AI, p. 5.
- ¹⁰¹ JS5, p. 5.
- ¹⁰² JS6, p. 5.
- ¹⁰³ CoI, pp. 15-16.
- ¹⁰⁴ For relevant recommendations, see A/HRC/21/14, paras. 90.58, 90.72, 90.74, 90.75, 90.76, 90.77, 90.79 and 90.90.
- ¹⁰⁵ ADF International, pp. 1 and 5.
- ¹⁰⁶ CoI-CPTI, recommendation, p. 53. See also CoI, p. 2.
- ¹⁰⁷ CoI-CPTI, recommendation, p. 57. See also CoI, p. 2.
- ¹⁰⁸ JS1, p. 11.
- ¹⁰⁹ CoI-CPTI, recommendation, p. 60. See also CoI, p. 3.
- ¹¹⁰ For relevant recommendations, see A/HRC/21/14, paras. 90.38, 90.87, 90.88, 90.89, 90.90, and 90.93.
- ¹¹¹ AI, p. 2.
- ¹¹² E1-FRA, p. 5. See also Fundamental Rights Report 2016 – Annual Report 2016, p. 162.
- ¹¹³ AI, p. 3.
- ¹¹⁴ JS2, para. 4.28.
- ¹¹⁵ JS2, para. 4.29.
- ¹¹⁶ JS1, p. 5.

- ¹⁰¹ *Id.*, p. 10.
- ¹⁰² *Id.*, p. 10.
- ¹⁰³ *Id.*, p. 6.
- ¹⁰⁴ *Id.*, p. 10.
- ¹⁰⁵ *CoE-Commissioner*, para. 61. See also *CoE*, pp. 3-4.
- ¹⁰⁶ *Id.*, para. 4.30.
- ¹⁰⁷ *Id.*, p. 6.
- ¹⁰⁸ *Id.*, p. 7.
- ¹⁰⁹ *Id.*, p. 6.
- ¹¹⁰ *CoE-Commissioner*, para. 92. See also *CoE*, p. 4.
- ¹¹¹ *Id.*, p. 16. / See A/HRC/21/14, para. 90.93 (Uzbekistan).
- ¹¹² For relevant recommendations, see A/HRC/21/14, paras. 90.100 and 90.101.
- ¹¹³ *Id.*, pp. 5-6. / See A/HRC/21/14, paras. 90.100 (Norway) and 90.101 (Holy See).
- ¹¹⁴ *Id.*, p. 10.
- ¹¹⁵ *CoE-Commissioner*, p. 2. See also *CoE*, p. 4.
- ¹¹⁶ *Id.*, para. 3.4.
- ¹¹⁷ *OSI-IRIA*, p. 1.
- ¹¹⁸ *Id.*, para. 3.5.
- ¹¹⁹ *OSI-IRIA*, p. 2.
- ¹²⁰ *OSI-IRIA*, p. 2.
- ¹²¹ *Id.*, p. 10.
- ¹²² *Id.*, p. 16.
- ¹²³ *Id.*, p. 16.
- ¹²⁴ *Id.*, para. 3.13.
- ¹²⁵ For relevant recommendations, see A/HRC/21/14, para. 90.82.
- ¹²⁶ *CoE-IRIA*, proposal, para. 12. See also *CoE*, p. 10.
- ¹²⁷ *OSI-IRIA*, p. 9.
- ¹²⁸ *CoE-IRIA*, proposal, para. 2. See also *CoE*, p. 10.
- ¹²⁹ *CoE-IRIA*, proposal, paras. 2 and 18. *CoE*, p. 10.
- ¹³⁰ For relevant recommendations, see A/HRC/21/14, paras. 90.67, 90.69, 90.71, and 90.97.
- ¹³¹ *Id.*, para. 5.11.
- ¹³² *Id.*, para. 5.13.
- ¹³³ *Id.*, p. 5.
- ¹³⁴ *Id.*, p. 18.
- ¹³⁵ *IRIA*, p. 2. / See A/HRC/21/14, paras. 90.69 (Australia), 90.71 (Brazil) and 90.101 (Holy See).
- ¹³⁶ *OSI-IRIA*, p. 13.
- ¹³⁷ *IRIA*, p. 2. / *Id.*, p. 6.
- ¹³⁸ *Id.*, p. 2.
- ¹³⁹ *CoE-IRIA*, p. 10 and para. 90. See also *CoE*, p. 7.
- ¹⁴⁰ For relevant recommendations, see A/HRC/21/14, paras. 90.29, 90.59, 90.113, and 90.115.
- ¹⁴¹ *Id.*, p. 17. See also the 2015 conclusions regarding thematic group "Children, families, migrants", available in European Social Charter Database – HUDOC Charter.
- ¹⁴² For relevant recommendations, see A/HRC/21/14, paras. 90.59, 90.113, 90.114, and 90.115.
- ¹⁴³ *Id.*, p. 17. See also the 2015 conclusions regarding thematic group "Children, families, migrants", available in European Social Charter Database – HUDOC Charter.
- ¹⁴⁴ For relevant recommendations, see A/HRC/21/14, paras. 90.67, 90.71, 90.96, 90.106, 90.107, 90.108, 90.109, and 90.110.
- ¹⁴⁵ *Id.*, para. 12. / See A/HRC/21/14, paras. 90.96 (Australia), 90.106 (Norway), 90.107 (Slovenia), and 90.109 (Slovenia) and 90.109 (Sweden).
- ¹⁴⁶ *Id.*, paras. 3-6.
- ¹⁴⁷ *Id.*, para. 7-8.
- ¹⁴⁸ *Id.*, p. 6.
- ¹⁴⁹ *OSI-IRIA*, p. 12.
- ¹⁵⁰ *OSI-IRIA*, p. 13.
- ¹⁵¹ *CoE-IRIA*, p. 10. See also *CoE*, p. 6.
- ¹⁵² *IRIA*, pp. 3-4.

- ¹¹⁹ For relevant recommendations, see A/HRC/21/14, paras. 90.37, 90.43, 90.78, 90.79, 90.80, and 90.81.
- ¹²⁰ CoE-Commissioner, p. 2. See also CoE, p. 4.
- ¹²¹ CoE, p. 17. See also the 2015 conclusions regarding thematic group "Children, families, migrants", available in European Social Charter Database – HUDOC Charter.
- ¹²² For relevant recommendations, see A/HRC/21/14, paras. 90.83, 90.84, 90.85, and 90.86.
- ¹²³ CoE-GRETA, para. 148. See also CoE, p. 10.
- ¹²⁴ For relevant recommendations, see A/HRC/21/14, para. 90.91.
- ¹²⁵ JS5, p. 8.
- ¹²⁶ JS5, p. 9.
- ¹²⁷ For relevant recommendations, see A/HRC/21/14, paras. 90.111, 90.112, 90.113, 90.114, 90.115, 90.116, and 90.117.
- ¹²⁸ Resolution CM/Re CMN (2015)3, 1 b).
- ¹²⁹ Resolution CM/Re CMN (2015)3, 2.
- ¹³⁰ Resolution CM/Re CMN (2015)3, 1 b).
- ¹³¹ Resolution CM/Re CMN (2015)3, 2.
- ¹³² CoE, p. 9.
- ¹³³ For relevant recommendations, see A/HRC/21/14, paras. 90.39, 90.51, 90.118, and 90.121.
- ¹³⁴ JS1, p. 10. / SIP, p. 4. / See A/HRC/21/14, para. 90.121 (Belarus).
- ¹³⁵ SIP, p. 5.
- ¹³⁶ SIP, p. 2. / See A/HRC/21/14, paras. 90.27 (Norway) and 90.28 (Austria).
- ¹³⁷ SIP, p. 3.
- ¹³⁸ SIP, p. 3.
- ¹³⁹ SIP, p. 4.
- ¹⁴⁰ JS1, p. 11. / SIP, p. 6.
- ¹⁴¹ SIP, p. 6.
-